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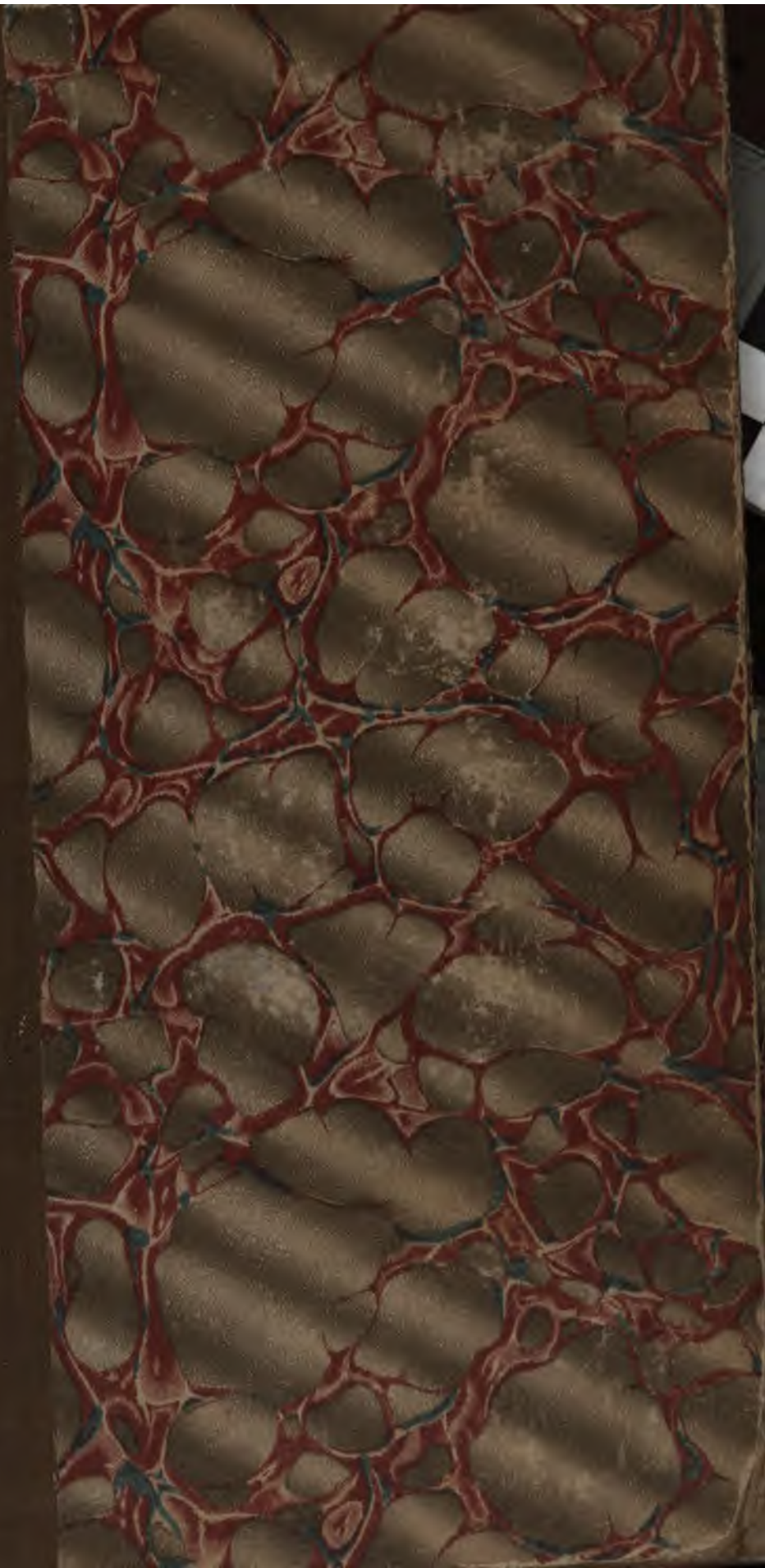
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CONSTITUTION

OF THE

COMMONWEALTH OF MASSACHUSETTS.

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PUBLISHED BY THE  
SECRETARY OF THE COMMONWEALTH.

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A CONSTITUTION  
OR  
FORM OF GOVERNMENT

FOR

*The Commonwealth of Massachusetts*

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P R E A M B L E .

The end of the institution, maintenance, and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it with the power of enjoying in safety and tranquillity their natural rights, and the blessings of life: and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity, and happiness.

Objects of  
government.

The body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation and a faithful execution of them; that every man may, at all times, find his security in them.

Body politic,  
how formed.  
Its nature.

We, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the great Legislator of the universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably, without fraud, violence, or surprise, of entering into

an original, explicit, and solemn compact with each other; and of forming a new constitution of civil government, for ourselves and posterity; and devoutly imploring His direction in so interesting a design, do agree upon, ordain, and establish, the following *Declaration of Rights, and Frame of Government*, as the CONSTITUTION OF THE COMMONWEALTH OF MASSACHUSETTS.

## PART THE FIRST.

### *A Declaration of the Rights of the Inhabitants of the Commonwealth of Massachusetts.*

Equality and natural rights of all men.

ARTICLE I. All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

Right and duty of public religious worship. Protection therein. 2 Cush. 104. 12 Allen, 129. See amendments, Art. XLVI.

II. It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the SUPREME BEING, the great Creator and Preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession of sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.

Amendments, Art. XI. substituted for this.

III. [As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion, and morality; and as these cannot be generally diffused through a community but by the institution of the public worship of God, and of public instructions in piety, religion, and morality: Therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with power to authorize and require, and the legislature shall, from time to time, authorize and require, the several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of God, and for the support and maintenance of public Protestant teachers

Legislature empowered to compel provision for public worship.

of piety, religion, and morality, in all cases where such provision shall not be made voluntarily.

And the people of this commonwealth have also a right to, and do, invest their legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend.

Legislature to enjoin attendance thereon.

Provided, notwithstanding, that the several towns, parishes, precincts, and other bodies politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers, and of contracting with them for their support and maintenance.

Exclusive right of electing religious teachers secured.

And all moneys paid by the subject to the support of public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there be any on whose instructions he attends; otherwise it may be paid towards the support of the teacher or teachers of the parish or precinct in which the said moneys are raised.

Option as to whom parochial taxes may be paid, unless, etc.

And every denomination of Christians, demeaning themselves peaceably, and as good subjects of the commonwealth, shall be equally under the protection of the law: and no subordination of any one sect or denomination to another shall ever be established by law.]

All denominations equally protected. 8 Met. 162. Subordination of one sect to another prohibited.

IV. The people of this commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign, and independent state; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter be, by them expressly delegated to the United States of America, in Congress assembled.

Right of self government secured.

V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them.

Accountability of all officers, etc.

VI. No man, nor corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary, nor transmissible to children,

Services rendered to the public being the only title to peculiar privileges, hereditary offices are absurd and unnatural.

Objects of government; right of people to institute and change it.

Right of people to secure rotation in office.

All, having the qualifications prescribed, equally eligible to office. For the definition of "inhabitant," see Ch. 1, Sect. 2, Art. II.

Right of protection and duty of contribution correlative.

Taxation founded on consent.  
16 Mass. 326.  
1 Pick. 418.  
7 Pick. 344.  
12 Pick. 184, 467.  
16 Pick. 87.  
23 Pick. 360.  
7 Met. 388.  
4 Gray, 474.  
7 Gray, 363.  
14 Gray, 154.  
1 Allen, 150.  
4 Allen, 474.

Private property not to be taken for public uses without, etc.  
See amendments, Arts. XXXIX and XLVII.

Remedies, by recourse to the law, to be free, complete and prompt.

or descendants, or relations by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural.

VII. Government is instituted for the common good; for the protection, safety, prosperity, and happiness of the people; and not for the profit, honor, or private interest of any one man, family, or class of men: Therefore the people alone have an incontestable, unalienable, and infeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity, and happiness require it.

VIII. In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments.

IX. All elections ought to be free; and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments. See amendments, Art. XLV. 122 Mass. 595, 596.

X. Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty, and property, according to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection; to give his personal service, or an equivalent, when necessary: but no part of the property of any individual can, with justice, be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. In fine, the people of this commonwealth are not controllable by any other laws than those to which their constitutional representative body have given their consent. And whenever the public exigencies require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

6 Cush. 327.	12 Allen, 223, 230.	108 Mass. 202, 213.	126 Mass. 428, 441.
14 Gray, 155.	100 Mass. 544, 560.	111 Mass. 130.	127 Mass. 50, 52.
16 Gray, 417, 431.	103 Mass. 120, 624.	113 Mass. 45.	358, 363, 410, 413.
1 Allen, 150.	106 Mass. 356, 362.	116 Mass. 463.	129 Mass. 559.
11 Allen, 530.			

XI. Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and

justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws.

XII. No subject shall be held to answer for any crimes or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his counsel, at his election. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

100 Mass. 287, 295.	108 Mass. 5, 6.	122 Mass. 332.	127 Mass. 550, 554.
103 Mass. 418.	118 Mass. 443, 451.	124 Mass. 464.	129 Mass. 559.
107 Mass. 172, 180.	120 Mass. 118, 120.		

And the legislature shall not make any law that shall subject any person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.

XIII. In criminal prosecutions, the verification of facts, in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen.

XIV. Every subject has a right to be secure from all unreasonable searches, and seizures, of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath or affirmation, and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure: and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws.

XV. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has heretofore been otherways used and practised, the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless, in causes arising on the high seas, and such as relate to mariners' wages, the legislature shall hereafter find it necessary to alter it.

114 Mass. 388, 390.	122 Mass. 505, 516.	125 Mass. 182, 188.
120 Mass. 320, 321.	123 Mass. 590, 593.	128 Mass. 600.

Prosecutions regulated.  
8 Pick. 211.  
10 Pick. 9.  
18 Pick. 434.  
21 Pick. 542.  
2 Met. 329.  
12 Cush. 246.  
1 Gray, 1.  
5 Gray, 160.  
8 Gray, 329.  
10 Gray, 11.  
11 Gray, 438.  
2 Allen, 361.  
11 Allen, 238-240, 264, 439, 473.  
12 Allen, 170.  
97 Mass. 570, 573.

Right to trial by jury in criminal cases, except, etc.  
8 Gray, 329, 373.  
103 Mass. 418.

Crimes to be proved in the vicinity.  
7 Pick. 550.  
121 Mass. 61, 62.

Right of search and seizure regulated.  
Const. of U. S., Amend't IV.  
2 Met. 329.  
5 Cush. 369.  
1 Gray, 1.  
13 Gray, 454.  
10 Allen, 403.  
100 Mass. 136, 139.  
126 Mass. 269, 273.

Right to trial by jury sacred, except, etc.  
Const. of U. S., Amend't VII.  
2 Pick. 382.  
7 Pick. 366.  
5 Gray, 144.  
8 Gray, 373.  
11 Allen, 574, 577.  
102 Mass. 45, 47.

Liberty of the press.

XVI. The liberty of the press is essential to the security of freedom in a state: it ought not, therefore, to be restrained in this commonwealth,

Right to keep and bear arms. Standing armies dangerous. Military power subordinate to civil. 5 Gray, 121.

XVII. The people have a right to keep and to bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it.

Moral qualifications for office.

XVIII. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives: and they have a right to require of their lawgivers and magistrates an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the commonwealth.

Moral obligations of lawgivers and magistrates.

Right of people to instruct representatives and petition legislature.

XIX. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives, and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

Power to suspend the laws or their execution.

XX. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for.

Freedom of debate, etc., and reason thereof.

XXI. The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

Frequent sessions, and objects thereof.

XXII. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening, and confirming the laws, and for making new laws, as the common good may require.

Taxation founded on consent. 8 Allen, 247.

XXIII. No subsidy, charge, tax, impost, or duties ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people or their representatives in the legislature.

XXIV. Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

*Ex post facto*  
laws prohibited.  
12 Allen, 421,  
424, 428, 434.

XXV. No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature.

Legislature not  
to convict of  
treason, etc.

XXVI. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

5 Gray, 482.

Excessive bail  
or fines, and  
cruel punish-  
ments, pro-  
hibited.

XXVII. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

No soldier to be  
quartered in  
any house,  
unless, etc.

XXVIII. No person can in any case be subject to law-martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

Citizens exempt  
from law-mar-  
tial, unless, etc.

XXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they should have honorable salaries ascertained and established by standing laws.

Judges of su-  
preme judicial  
court.  
3 Pick. 471.  
1 Gray, 472.  
4 Allen, 591.  
7 Allen, 385.  
105 Mass. 219,  
221, 225.  
Tenure of their  
office.

XXX. In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: the executive shall never exercise the legislative and judicial powers, or either of them: the judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men.

Salaries.

Separation of  
executive, judi-  
cial, and legis-  
lative depart-  
ments.  
2 Cush. 577.  
2 Allen, 361.  
8 Allen, 247, 253.  
100 Mass. 282,  
286.  
114 Mass. 247,  
249.



## PART THE SECOND.

*The Frame of Government.*

Title of body  
politic.

The people, inhabiting the territory formerly called the Province of Massachusetts Bay, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign, and independent body politic, or state, by the name of THE COMMONWEALTH OF MASSACHUSETTS.

## CHAPTER I.

## THE LEGISLATIVE POWER.

## SECTION I.

*The General Court.*

Legislative  
department.

ARTICLE I. The department of legislation shall be formed by two branches, a Senate and House of Representatives; each of which shall have a negative on the other.

For change of  
time, etc., see  
amendments,  
Art. X.

The legislative body shall assemble every year [on the last Wednesday in May, and at such other times as they shall judge necessary; and shall dissolve and be dissolved on the day next preceding the said last Wednesday in May;] and shall be styled, THE GENERAL COURT OF MASSACHUSETTS.

Governor's  
veto.  
99 Mass. 636.

II. No bill or resolve of the 'senate or house of representatives shall become a law, and have force as such, until it shall have been laid before the governor for his revisal; and if he, upon such revision, approve thereof, he shall signify his approbation by signing the same. But if he have any objection to the passing of such bill or resolve, he shall return the same, together with his objections thereto, in writing, to the senate or house of representatives, in whichever the same shall have originated; who shall enter the objections sent down by the governor, at large, on their records, and proceed to reconsider the said bill or resolve. But if after such reconsideration, two-thirds of the said senate or house of representatives, shall, notwithstanding the said objections, agree to pass the same, it shall, together with the objections, be sent to the other branch of the legislature, where it shall also be reconsidered, and if approved by two-thirds of the members present, shall have the force of a law: but in all such cases,

Bill may be  
passed by two-  
thirds of each  
house, not-  
withstanding.

the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for, or against, the said bill or resolve, shall be entered upon the public records of the commonwealth.

And in order to prevent unnecessary delays, if any bill or resolve shall not be returned by the governor within five days after it shall have been presented, the same shall have the force of a law.

3 Mass. 567.

III. The general court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be held in the name of the commonwealth, for the hearing, trying, and determining of all manner of crimes, offences, pleas, processes, complaints, actions, matters, causes, and things, whatsoever, arising or happening within the commonwealth, or between or concerning persons inhabiting, or residing, or brought within the same: whether the same be criminal or civil, or whether the said crimes be capital or not capital, and whether the said pleas be real, personal, or mixed; and for the awarding and making out of execution thereupon. To which courts and judicatories are hereby given and granted full power and authority, from time to time, to administer oaths or affirmations, for the better discovery of truth in any matter in controversy or depending before them.

For exception in case of adjournment of the general court within the five days, see amendments, Art. I. General court may constitute judicatories, courts of record, etc. 8 Gray, 1. 12 Gray, 147, 164.

Peck  
12

Courts, etc., may administer oaths.

IV. And further, full power and authority are hereby given and granted to the said general court, from time to time to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions and instructions, either with penalties or without; so as the same be not repugnant or contrary to this constitution, as they shall judge to be for the good and welfare of this commonwealth, and for the government and ordering thereof, and of the subjects of the same, and for the necessary support and defence of the government thereof; and to name and settle annually, or provide by fixed laws for the naming and settling, all civil officers within the said commonwealth, the election and constitution of whom are not hereafter in this form of government otherwise provided for; and to set forth the several duties, powers, and limits, of the several civil and military officers of this commonwealth, and the forms of such oaths or affirmations as shall be respectively administered unto them for the execution of their several offices and

General court may enact laws, etc.

9 Gray, 426.  
4 Allen, 473.  
12 Allen, 223, 237.  
100 Mass. 544, 557.  
116 Mass. 467, 470.

may enact laws, etc., not repugnant to the constitution. 6 Allen, 358.

may provide for the election or appointment of officers. 115 Mass. 602.

may prescribe their duties.

General court  
may impose  
taxes, etc. See  
amendments,  
Art. XLI and  
Art. XLIV.  
12 Mass. 252.  
5 Allen, 428.  
6 Allen, 558.  
8 Allen, 247, 253.  
10 Allen, 235.  
11 Allen, 268.  
12 Allen, 77,  
223, 235, 238,  
240, 298, 300,  
312, 313, 500, 612.  
98 Mass. 19.  
100 Mass. 285.  
101 Mass. 575,  
585.  
103 Mass. 267.  
114 Mass. 388,  
391.  
116 Mass. 461.  
118 Mass. 386,  
389.  
123 Mass. 493,  
495.  
127 Mass. 413.  
may impose  
taxes, etc., to  
be disposed of  
for defence,  
protection, etc.  
8 Allen, 247,  
256.  
Valuation of  
estates once in  
ten years, at  
least, while, etc.  
8 Allen, 247.  
126 Mass. 547.

places, so as the same be not repugnant or contrary to this constitution; and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said commonwealth; and also to impose and levy reasonable duties and excises upon any produce, goods, wares, merchandise, and commodities, whatsoever, brought into, produced, manufactured, or being within the same; to be issued and disposed of by warrant, under the hand of the governor of this commonwealth for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of the said commonwealth, and the protection and preservation of the subjects thereof, according to such acts as are or shall be in force within the same.

And while the public charges of government, or any part thereof, shall be assessed on polls and estates, in the manner that has hitherto been practised, in order that such assessments may be made with equality, there shall be a valuation of estates within the commonwealth, taken anew once in every ten years at least, and as much oftener as the general court shall order.

For the authority of the general court to charter cities, see amendments, Art. II.

For the state wide referendum on bills and resolves of the general court, see amendments, Art. XLII.

For the power given the general court to provide by law for absentee voting, see amendments, Art. XLV.

For the power given the general court to determine the manner of providing and distributing the necessaries of life, etc., during time of war, public distress, etc., by the commonwealth and the cities and towns therein, see amendments, Art. XLVII.

## CHAPTER I.

### SECTION II.

#### *Senate.*

Senate, number  
of, and by  
whom elected.  
Superseded by  
amendments,  
Art. XIII.,  
which was also  
superseded by  
amendments,  
Art. XXII.

ARTICLE I. {There shall be annually elected, by the freeholders and other inhabitants of this commonwealth, qualified as in this constitution is provided, forty persons to be councillors and senators for the year ensuing their election; to be chosen by the inhabitants of the districts into which the commonwealth may, from time to time, be divided by the general court for that purpose: and the

general court, in assigning the numbers to be elected by the respective districts, shall govern themselves by the proportion of the public taxes paid by the said districts; and timely make known to the inhabitants of the commonwealth the limits of each district, and the number of councillors and senators to be chosen therein; provided, that the number of such districts shall never be less than thirteen; and that no district be so large as to entitle the same to choose more than six senators.

For provision as to councillors, see amendments, Art. XVI.

And the several counties in this commonwealth shall, until the general court shall determine it necessary to alter the said districts, be districts for the choice of councillors and senators, (except that the counties of Dukes County and Nantucket shall form one district for that purpose) and shall elect the following number for councillors and senators, viz.:—Suffolk, six; Essex, six; Middlesex, five; Hampshire, four; Plymouth, three; Barnstable, one; Bristol, three; York, two; Dukes County and Nantucket, one; Worcester, five; Cumberland, one; Lincoln, one; Berkshire, two.]

Counties to be districts, until, etc.

II. The senate shall be the first branch of the legislature; and the senators shall be chosen in the following manner, viz.: there shall be a meeting on the [first Monday in April,] annually, forever, of the inhabitants of each town in the several counties of this commonwealth; to be called by the selectmen, and warned in due course of law, at least seven days before the [first Monday in April,] for the purpose of electing persons to be senators and councillors; [and at such meetings every male inhabitant of twenty-one years of age and upwards, having a freehold estate within the commonwealth, of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to give in his vote for the senators for the district of which he is an inhabitant.] And to remove all doubts concerning the meaning of the word "inhabitant" in this constitution, every person shall be considered as an inhabitant, for the purpose of electing and being elected into any office, or place within this state, in that town, district, or plantation where he dwelleth, or hath his home.

Manner and time of choosing senators and councillors. See amendments, Arts. X, XV and XLV. As to cities, see amendments, Art. II. Provisions as to qualifications of voters, superseded by amendments, Arts. III., XX., XXVIII., XXX., XXXI. and XXXII. Word "inhabitant" defined. See also amendments, Art. XXIII., which was annulled by Art. XXVI. 12 Gray, 21. 122 Mass. 595, 597.

The selectmen of the several towns shall preside at such meetings impartially; and shall receive the votes of all the inhabitants of such towns present and qualified to vote for senators, and shall sort and count them in

Selectmen to preside at town meetings.

Return of  
votes.

As to cities, see  
amendments,  
Art. II.

Time changed  
to first Wednes-  
day of January.  
See amend-  
ments, Art. X.

Inhabitants of  
unincorporated  
plantations,  
who pay state  
taxes, may  
vote.

Plantation  
meetings.  
Time of elec-  
tion changed  
by amend-  
ments, Art.  
XV.  
Assessors to  
notify, etc.

Governor and  
council to ex-  
amine and  
count votes,  
and issue  
summonses.  
Time changed  
to first  
Wednesday in  
January by

open town meeting, and in presence of the town clerk, who shall make a fair record, in presence of the selectmen, and in open town meeting, of the name of every person voted for, and of the number of votes against his name: and a fair copy of this record shall be attested by the selectmen and the town clerk, and shall be sealed up, directed to the secretary of the commonwealth for the time being, with a superscription, expressing the purport of the contents thereof, and delivered by the town clerk of such towns, to the sheriff of the county in which such town lies, thirty days at least before [the last Wednesday in May] annually; or it shall be delivered into the secretary's office seventeen days at least before the said [last Wednesday in May:] and the sheriff of each county shall deliver all such certificates by him received, into the secretary's office, seventeen days before the said [last Wednesday in May.]

And the inhabitants of plantations unincorporated, qualified as this constitution provides, who are or shall be empowered and required to assess taxes upon themselves toward the support of government, shall have the same privilege of voting for councillors and senators in the plantations where they reside, as town inhabitants have in their respective towns; and the plantation meetings for that purpose shall be held annually [on the same first Monday in April], at such place in the plantations, respectively, as the assessors thereof shall direct; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town clerks have in their several towns, by this constitution. And all other persons living in places unincorporated (qualified as aforesaid) who shall be assessed to the support of government by the assessors of an adjacent town, shall have the privilege of giving in their votes for councillors and senators in the town where they shall be assessed, and be notified of the place of meeting by the selectmen of the town where they shall be assessed, for that purpose, accordingly.

III. And that there may be a due convention of senators on the [last Wednesday in May] annually, the governor with five of the council, for the time being, shall, as soon as may be, examine the returned copies of such records; and fourteen days before the said day he shall issue his summons to such persons as shall appear to be

chosen by [a majority of] voters, to attend on that day, and take their seats accordingly: provided, nevertheless, that for the first year the said returned copies shall be examined by the president and five of the council of the former constitution of government; and the said president shall, in like manner, issue his summons to the persons so elected, that they may take their seats as aforesaid.

amendments,  
Art. X.  
Majority  
changed to  
plurality by  
amendments,  
Art. XIV.

IV. The senate shall be the final judge of the elections, returns and qualifications of their own members, as pointed out in the constitution; and shall, [on the said last Wednesday in May] annually, determine and declare who are elected by each district to be senators [by a majority of votes; and in case there shall not appear to be the full number of senators returned elected by a majority of votes for any district, the deficiency shall be supplied in the following manner, viz.: The members of the house of representatives, and such senators as shall be declared elected, shall take the names of such persons as shall be found to have the highest number of votes in such district, and not elected, amounting to twice the number of senators wanting, if there be so many voted for; and out of these shall elect by ballot a number of senators sufficient to fill up the vacancies in such district; and in this manner all such vacancies shall be filled up in every district of the commonwealth; and in like manner all vacancies in the senate, arising by death, removal out of the state, or otherwise, shall be supplied as soon as may be, after such vacancies shall happen.]

Senate to be  
final judge of  
elections, etc.,  
of its own  
members.  
Time changed to  
first  
Wednesday of  
January by  
amendments,  
Art. X.  
Majority  
changed to  
plurality by  
amendments,  
Art. XIV.

Vacancies, how  
filled.  
Changed to  
election by  
people.  
See amend-  
ments, Art.  
XXIV.

V. Provided, nevertheless, that no person shall be capable of being elected as a senator, [who is not seised in his own right of a freehold, within this commonwealth, of the value of three hundred pounds at least, or possessed of personal estate to the value of six hundred pounds at least, or of both to the amount of the same sum, and] who has not been an inhabitant of this commonwealth for the space of five years immediately preceding his election, and, at the time of his election, he shall be an inhabitant in the district for which he shall be chosen.

Qualifications  
of a senator.  
Property qual-  
ification abol-  
ished.  
See amend-  
ments, Art.  
XIII.  
For further  
provision as to  
residence, see  
also amend-  
ments, Art.  
XXII.

VI. The senate shall have power to adjourn themselves, provided such adjournments do not exceed two days at a time.

Senate not to  
adjourn more  
than two days.

VII. The senate shall choose its own president, appoint its own officers, and determine its own rules of proceedings.

shall choose  
its officers and  
establish its  
rules.

**Senate shall try all impeachments.**

**Oath.  
Limitation of sentence.**

**Quorum. See amendments, Arts. XXII. and XXXIII.**

VIII. The senate shall be a court with full authority to hear and determine all impeachments made by the house of representatives, against any officer or officers of the commonwealth, for misconduct and mal-administration in their offices. But previous to the trial of every impeachment the members of the senate shall respectively be sworn, truly and impartially to try and determine the charge in question, according to evidence. Their judgment, however, shall not extend further than to removal from office and disqualification to hold or enjoy any place of honor, trust, or profit, under this commonwealth; but the party so convicted shall be, nevertheless, liable to indictment, trial, judgment, and punishment, according to the laws of the land.

IX. [Not less than sixteen members of the senate shall constitute a quorum for doing business.]

## CHAPTER I.

### SECTION III.

#### *House of Representatives.*

**Representation of the people.**

**Representatives, by whom chosen. Superseded by amendments, Arts. XII. and XIII., which were also superseded by amendments, Art. XXI. 7 Mass. 523.**

**Proviso as to towns having less than 150 ratable polls.**

ARTICLE I. There shall be, in the legislature of this commonwealth, a representation of the people, annually elected, and founded upon the principle of equality.

II. [And in order to provide for a representation of the citizens of this commonwealth, founded upon the principle of equality, every corporate town containing one hundred and fifty ratable polls may elect one representative; every corporate town containing three hundred and seventy-five ratable polls may elect two representatives; every corporate town containing six hundred ratable polls may elect three representatives; and proceeding in that manner, making two hundred and twenty-five ratable polls the mean increasing number for every additional representative.

Provided, nevertheless, that each town now incorporated, not having one hundred and fifty ratable polls, may elect one representative; but no place shall hereafter be incorporated with the privilege of electing a representative, unless there are within the same one hundred and fifty ratable polls.]

And the house of representatives shall have power from time to time to impose fines upon such towns as shall neglect to choose and return members to the same, agreeably to this constitution.

Towns liable to fine in case, etc.

[The expenses of travelling to the general assembly, and returning home, once in every session, and no more, shall be paid by the government, out of the public treasury, to every member who shall attend as seasonably as he can, in the judgment of the house, and does not depart without leave.]

Expenses of travelling to and from the general court, how paid. Annulled by Art. XXXV.

III. Every member of the house of representatives shall be chosen by written votes; [and, for one year at least next preceding his election, shall have been an inhabitant of, and have been seised in his own right of a freehold of the value of one hundred pounds within the town he shall be chosen to represent, or any ratable estate to the value of two hundred pounds; and he shall cease to represent the said town immediately on his ceasing to be qualified as aforesaid.]

Qualifications of a representative. New provision as to residence. See amendments, Art. XXI. Property qualifications abolished by amendments, Art. XIII.

IV. [Every male person, being twenty-one years of age, and resident in any particular town in this commonwealth for the space of one year next preceding, having a freehold estate within the said town of the annual income of three pounds, or any estate of the value of sixty pounds, shall have a right to vote in the choice of a representative or representatives for the said town.]

Qualifications of a voter. These provisions superseded by amendments, Arts. III., XX., XXVIII., XXX., XXXI., XXXII. and XLV.

See also amendments, Art. XXIII., which was annulled by Art. XXVI.

V. [The members of the house of representatives shall be chosen annually in the month of May, ten days at least before the last Wednesday of that month.]

Representatives, when chosen.

Time of election changed by amendments, Art. X., and changed again by amendments, Art. XV.

VI. The house of representatives shall be the grand inquest of this commonwealth; and all impeachments made by them shall be heard and tried by the senate.

House alone can impeach.

VII. All money bills shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.

House to originate all money bills.

VIII. The house of representatives shall have power to adjourn themselves; provided such adjournment shall not exceed two days at a time.

Not to adjourn more than two days.

IX. [Not less than sixty members of the house of representatives shall constitute a quorum for doing business.]

Quorum. See amendments, Arts. XXI. and XXXIII.



To judge of  
returns, etc., of  
its own mem-  
bers; to choose  
its officers and  
establish its  
rules, etc.  
May punish  
for certain  
offences.  
14 Gray, 226.

X. The house of representatives shall be the judge of the returns, elections, and qualifications of its own members, as pointed out in the constitution; shall choose their own speaker; appoint their own officers, and settle the rules and orders of proceeding in their own house. They shall have authority to punish by imprisonment every person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in its presence; or who, in the town where the general court is sitting, and during the time of its sitting, shall threaten harm to the body or estate of any of its members, for any thing said or done in the house; or who shall assault any of them therefor; or who shall assault, or arrest, any witness, or other person, ordered to attend the house, in his way in going or returning; or who shall rescue any person arrested by the order of the house.

Privileges of  
members.

And no member of the house of representatives shall be arrested, or held to bail on mesne process, during his going unto, returning from, or his attending the general assembly.

Senate.  
Governor and  
council may  
punish.  
General limita-  
tion.  
14 Gray, 226.

XI. The senate shall have the same powers in the like cases; and the governor and council shall have the same authority to punish in like cases: provided, that no imprisonment on the warrant or order of the governor, council, senate, or house of representatives, for either of the above described offences, be for a term exceeding thirty days.

Trial may be  
by committee,  
or otherwise.

And the senate and house of representatives may try and determine all cases where their rights and privileges are concerned, and which, by the constitution, they have authority to try and determine, by committees of their own members, or in such other way as they may respectively think best.

## CHAPTER II.

### EXECUTIVE POWER.

#### SECTION I.

##### *Governor.*

Governor.

ARTICLE I. There shall be a supreme executive magistrate, who shall be styled — THE GOVERNOR OF THE COMMONWEALTH OF MASSACHUSETTS; and whose title shall be — HIS EXCELLENCY.

His title.

II. The governor shall be chosen annually; and no person shall be eligible to this office, unless, at the time of his election, he shall have been an inhabitant of this commonwealth for seven years next preceding; [and unless he shall at the same time be seised, in his own right, of a freehold, within the commonwealth, of the value of one thousand pounds;] [and unless he shall declare himself to be of the Christian religion.]

To be chosen annually.  
Qualifications.  
See amendments, Arts. VII. and XXXIV.

III. Those persons who shall be qualified to vote for senators and representatives within the several towns of this commonwealth shall, at a meeting to be called for that purpose, on the [first Monday of April] annually, give in their votes for a governor, to the selectmen, who shall preside at such meetings; and the town clerk, in the presence and with the assistance of the selectmen, shall, in open town meeting, sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name; and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting; and shall, in the presence of the inhabitants, seal up copies of the said list, attested by him and the selectmen, and transmit the same to the sheriff of the county, thirty days at least before the [last Wednesday in May]; and the sheriff shall transmit the same to the secretary's office, seventeen days at least before the said [last Wednesday in May]; or the selectmen may cause returns of the same to be made to the office of the secretary of the commonwealth, seventeen days at least before the said day; and the secretary shall lay the same before the senate and the house of representatives on the [last Wednesday in May], to be by them examined; and in case of an election by a [majority] of all the votes returned, the choice shall be by them declared and published; but if no person shall have a [majority] of votes, the house of representatives shall, by ballot, elect two out of four persons who had the highest number of votes, if so many shall have been voted for; but, if otherwise, out of the number voted for; and make return to the senate of the two persons so elected; on which the senate shall proceed, by ballot, to elect one, who shall be declared governor.

By whom chosen, if he have a majority of votes.  
See amendments, Art. XLV.

Time of election changed by amendments, Art. X., and changed again by amendments, Art. XV.

As to cities, see amendments, Art. II.

Time changed to first Wednesday of January by amendments, Art. X.

Changed to plurality by amendments, Art. XIV.

How chosen, when no person has a plurality.

IV. The governor shall have authority, from time to time, at his discretion, to assemble and call together the councillors of this commonwealth for the time being; and

Power of governor, and of governor and council.

the governor with the said councillors, or five of them at least, shall, and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the commonwealth, agreeably to the constitution and the laws of the land.

May adjourn or prorogue the general court upon request, and convene the same. As to dissolution, see amendments, Art. X.

V. The governor, with advice of council, shall have full power and authority, during the session of the general court, to adjourn or prorogue the same to any time the two houses shall desire; [and to dissolve the same on the day next preceding the last Wednesday in May; and, in the recess of the said court, to prorogue the same from time to time, not exceeding ninety days in any one recess;] and to call it together sooner than the time to which it may be adjourned or prorogued, if the welfare of the commonwealth shall require the same; and in case of any infectious distemper prevailing in the place where the said court is next at any time to convene, or any other cause happening, whereby danger may arise to the health or lives of the members from their attendance, he may direct the session to be held at some other, the most convenient place within the state.

As to dissolution, see amendments, Art. X.

Governor and council may adjourn the general court in cases, etc., but not exceeding ninety days.

[And the governor shall dissolve the said general court on the day next preceding the last Wednesday in May.]

VI. In cases of disagreement between the two houses, with regard to the necessity, expediency, or time of adjournment or prorogation, the governor, with advice of the council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days, as he shall determine the public good shall require.

Governor to be commander-in-chief.

VII. The governor of this commonwealth, for the time being, shall be the commander-in-chief of the army and navy, and of all the military forces of the state, by sea and land; and shall have full power, by himself, or by any commander, or other officer or officers, from time to time, to train, instruct, exercise, and govern the militia and navy; and, for the special defence and safety of the commonwealth, to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them to encounter, repel, resist, expel, and pursue, by force of arms, as well by sea as by land, within or without the limits of this commonwealth, and also to kill, slay, and destroy, if necessary, and conquer, by all fitting ways, enterprises, and means whatsoever, all and every such person and persons as shall, at

any time hereafter, in a hostile manner, attempt or enterprise the destruction, invasion, detriment, or annoyance of this commonwealth; and to use and exercise, over the army and navy, and over the militia in actual service, the law-martial, in time of war or invasion, and also in time of rebellion, declared by the legislature to exist, as occasion shall necessarily require; and to take and surprise, by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition, and other goods, as shall, in a hostile manner, invade, or attempt the invading, conquering, or annoying this commonwealth; and that the governor be intrusted with all these and other powers, incident to the offices of captain-general and commander-in-chief, and admiral, to be exercised agreeably to the rules and regulations of the constitution, and the laws of the land, and not otherwise.

Provided, that the said governor shall not, at any time hereafter, by virtue of any power by this constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this commonwealth, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court; except so far as may be necessary to march or transport them by land or water, for the defence of such part of the state to which they cannot otherwise conveniently have access. Limitation.

VIII. The power of pardoning offences, except such as persons may be convicted of before the senate by an impeachment of the house, shall be in the governor, by and with the advice of council; but no charter of pardon, granted by the governor, with advice of the council before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned. Governor and council may pardon offences, except, etc.  
  
But not before conviction.  
109 Mass. 323.

IX. All judicial officers, [the attorney-general,] the solicitor-general, [all sheriffs,] coroners, [and registers of probate,] shall be nominated and appointed by the governor, by and with the advice and consent of the council; and every such nomination shall be made by the governor, and made at least seven days prior to such appointment. Judicial officers, etc., how nominated and appointed.  
For provisions as to election of attorney-general, see amendments, Art. XVII.

For provision as to election of sheriffs, registers of probate, etc., see amendments, Art. XIX. For provision as to appointment of notaries public, see amendments, Art. IV.

Militia officers,  
how elected.  
Limitation of  
age struck out  
by amend-  
ments, Art. V.

How commis-  
sioned.

Election of  
officers.

Major-generals,  
how appointed  
and commis-  
sioned.

Vacancies, how  
filled, in case,  
etc.

Officers duly  
commissioned,  
how removed.  
Superseded by  
amendments,  
Art. IV.

Adjutants, etc.,  
how appointed.

Army officers,  
how appointed.

Organisation of  
militia.

Money, how  
drawn from the  
treasury,  
except, etc.  
13 Allen, 593.

X. The captains and subalterns of the militia shall be elected by the written votes of the train-band and alarm list of their respective companies, [of twenty-one years of age and upwards;] the field officers of regiments shall be elected by the written votes of the captains and subalterns of their respective regiments; the brigadiers shall be elected, in like manner, by the field officers of their respective brigades; and such officers, so elected, shall be commissioned by the governor, who shall determine their rank.

The legislature shall, by standing laws, direct the time and manner of convening the electors, and of collecting votes, and of certifying to the governor, the officers elected.

The major-generals shall be appointed by the senate and house of representatives, each having a negative upon the other; and be commissioned by the governor.

For provisions as to appointment of a commissary-general, see amendments, Art. IV.

And if the electors of brigadiers, field officers, captains or subalterns, shall neglect or refuse to make such elections, after being duly notified, according to the laws for the time being, then the governor, with advice of council, shall appoint suitable persons to fill such offices.

[And no officer, duly commissioned to command in the militia, shall be removed from his office, but by the address of both houses to the governor, or by fair trial in court-martial, pursuant to the laws of the commonwealth for the time being.]

The commanding officers of regiments shall appoint their adjutants and quartermasters; the brigadiers their brigade-majors; and the major-generals their aids; and the governor shall appoint the adjutant-general.

The governor, with advice of council, shall appoint all officers of the continental army, whom by the confederation of the United States it is provided that this commonwealth shall appoint, as also all officers of forts and garrisons.

The divisions of the militia into brigades, regiments, and companies, made in pursuance of the militia laws now in force, shall be considered as the proper divisions of the militia of this commonwealth, until the same shall be altered in pursuance of some future law.

XI. No moneys shall be issued out of the treasury of this commonwealth, and disposed of (except such sums as may be appropriated for the redemption of bills of credit

or treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the governor for the time being, with the advice and consent of the council, for the necessary defence and support of the commonwealth; and for the protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court.

XII. All public boards, the commissary-general, all superintending officers of public magazines and stores, belonging to this commonwealth, and all commanding officers of forts and garrisons within the same, shall once in every three months, officially, and without requisition, and at other times, when required by the governor, deliver to him an account of all goods, stores, provisions, ammunition, cannon with their appendages, and small arms with their accoutrements, and of all other public property whatever under their care respectively; distinguishing the quantity, number, quality and kind of each, as particularly as may be; together with the condition of such forts and garrisons; and the said commanding officer shall exhibit to the governor, when required by him, true and exact plans of such forts, and of the land and sea or harbor or harbors, adjacent.

All public boards, etc., to make quarterly returns.

And the said boards, and all public officers, shall communicate to the governor, as soon as may be after receiving the same, all letters, despatches, and intelligences of a public nature, which shall be directed to them respectively.

XIII. As the public good requires that the governor should not be under the undue influence of any of the members of the general court by a dependence on them for his support, that he should in all cases act with freedom for the benefit of the public, that he should not have his attention necessarily diverted from that object to his private concerns, and that he should maintain the dignity of the commonwealth in the character of its chief magistrate, it is necessary that he should have an honorable stated salary, of a fixed and permanent value, amply sufficient for those purposes, and established by standing laws: and it shall be among the first acts of the general court, after the commencement of this constitution, to establish such salary by law accordingly.

Salary of governor.

Permanent and honorable salaries shall also be established by law for the justices of the supreme judicial court.

Salaries of justices of supreme judicial court.

Salaries to be enlarged if insufficient.

And if it shall be found that any of the salaries aforesaid, so established, are insufficient, they shall, from time to time, be enlarged, as the general court shall judge proper.

## CHAPTER II.

### SECTION II.

#### *Lieutenant-Governor.*

Lieutenant-governor; his title and qualifications. See amendments, Arts. VII. and XXXIV.

ARTICLE I. There shall be annually elected a lieutenant-governor of the commonwealth of Massachusetts, whose title shall be — HIS HONOR; and who shall be qualified, in point of [religion,] [property,] and residence in the commonwealth, in the same manner with the governor; and the day and manner of his election, and the qualifications of the electors, shall be the same as are required in the election of a governor. The return of the votes for this officer, and the declaration of his election, shall be in the same manner; [and if no one person shall be found to have a majority of all the votes returned, the vacancy shall be filled by the senate and house of representatives, in the same manner as the governor is to be elected, in case no one person shall have a majority of the votes of the people to be governor.]

How chosen.

Election by plurality provided for by amendments, Art. XIV.

President of council. Lieutenant-governor a member of, except, etc.

II. The governor, and in his absence the lieutenant-governor, shall be president of the council, but shall have no vote in council; and the lieutenant-governor shall always be a member of the council, except when the chair of the governor shall be vacant.

Lieutenant-governor to be acting governor, in case, etc.

III. Whenever the chair of the governor shall be vacant, by reason of his death, or absence from the commonwealth, or otherwise, the lieutenant-governor, for the time being, shall, during such vacancy, perform all the duties incumbent upon the governor, and shall have and exercise all the powers and authorities, which by this constitution the governor is vested with, when personally present.

## CHAPTER II.

## SECTION III.

*Council, and the Manner of settling Elections by the Legislature.*

ARTICLE I. There shall be a council for advising the governor in the executive part of the government, to consist of [nine] persons besides the lieutenant-governor, whom the governor, for the time being, shall have full power and authority, from time to time, at his discretion, to assemble and call together; and the governor, with the said councillors, or five of them at least, shall and may, from time to time, hold and keep a council, for the ordering and directing the affairs of the commonwealth, according to the laws of the land.

Council.  
Number of  
councillors  
changed to  
eight.  
See amend-  
ments, Art.  
XVI.

II. [Nine councillors shall be annually chosen from among the persons returned for councillors and senators, on the last Wednesday in May, by the joint ballot of the senators and representatives assembled in one room; and in case there shall not be found upon the first choice, the whole number of nine persons who will accept a seat in the council, the deficiency shall be made up by the electors aforesaid from among the people at large; and the number of senators left shall constitute the senate for the year. The seats of the persons thus elected from the senate, and accepting the trust, shall be vacated in the senate.]

Number; from  
whom, and  
how chosen.  
Modified by  
amendments,  
Arts. X. and  
XIII.  
Superseded by  
amendments,  
Art. XVI.

III. The councillors, in the civil arrangements of the commonwealth, shall have rank next after the lieutenant-governor.

If senators be-  
come council-  
lors, their seats  
to be vacated.

IV. [Not more than two councillors shall be chosen out of any one district of this commonwealth.]

Rank of  
councillors.

No district to  
have more  
than two.

Superseded by amendments, Art. XVI.

V. The resolutions and advice of the council shall be recorded in a register, and signed by the members present; and this record may be called for at any time by either house of the legislature; and any member of the council may insert his opinion, contrary to the resolution of the majority.

Register of  
council.

VI. Whenever the office of the governor and lieutenant-governor shall be vacant, by reason of death, absence, or otherwise, then the council, or the major part of them,

Council to ex-  
ercise the  
power of gov-  
ernor in case,  
etc.



shall, during such vacancy, have full power and authority to do, and execute, all and every such acts, matters, and things, as the governor or the lieutenant-governor might or could, by virtue of this constitution, do or execute, if they, or either of them, were personally present.

Elections may be adjourned until, etc.

Order thereof. Superseded by amendments, Arts. XVI. and XXV.

VII. [And whereas the elections appointed to be made, by this constitution, on the last Wednesday in May annually, by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day until the same shall be completed. And the order of elections shall be as follows: the vacancies in the senate, if any, shall first be filled up; the governor and lieutenant-governor shall then be elected, provided there should be no choice of them by the people; and afterwards the two houses shall proceed to the election of the council.]

## CHAPTER II.

### SECTION IV.

#### *Secretary, Treasurer, Commissary, etc.*

Secretary, etc., by whom and how chosen. For provision as to election of secretary, treasurer and receiver-general, and auditor and attorney-general, see amendments, Art. XVII.  
Treasurer ineligible for more than five successive years.

ARTICLE I. [The secretary, treasurer and receiver-general, and the commissary-general, notaries public, and naval officers, shall be chosen annually, by joint ballot of the senators and representatives in one room. And, that the citizens of this commonwealth may be assured, from time to time, that the moneys remaining in the public treasury, upon the settlement and liquidation of the public accounts, are their property, no man shall be eligible as treasurer and receiver-general more than five years successively.

For provision as to appointment of notaries public and the commissary-general, see amendments, Art. IV.

Secretary to keep records; to attend the governor and council, etc.

II. The records of the commonwealth shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be accountable; and he shall attend the governor and council, the senate and house of representatives, in person, or by his deputies, as they shall respectively require.

## CHAPTER III.

## JUDICIARY POWER.

ARTICLE I. The tenure, that all commission officers shall by law have in their offices, shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behavior, excepting such concerning whom there is different provision made in this constitution: provided, nevertheless, the governor, with consent of the council, may remove them upon the address of both houses of the legislature.

Tenure of all commissioned officers to be expressed. Judicial officers to hold office during good behavior, except, etc. But may be removed on address.

II. Each branch of the legislature, as well as the governor and council, shall have authority to require the opinions of the justices of the supreme judicial court, upon important questions of law, and upon solemn occasions.

Justices of supreme judicial court to give opinions when required. 122 Mass. 600. 126 Mass. 557, 561.

III. In order that the people may not suffer from the long continuance in place of any justice of the peace who shall fail of discharging the important duties of his office with ability or fidelity, all commissions of justices of the peace shall expire and become void, in the term of seven years from their respective dates; and, upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well-being of the commonwealth.

Justices of the peace; tenure of their office. 3 Cush. 584.

IV. The judges of probate of wills, and for granting letters of administration, shall hold their courts at such place or places, on fixed days, as the convenience of the people shall require; and the legislature shall, from time to time, hereafter, appoint such times and places; until which appointments, the said courts shall be holden at the times and places which the respective judges shall direct.

For removal of justices of the peace, see amendments, Art. XXXVII.

V. All causes of marriage, divorce, and alimony, and all appeals from the judges of probate, shall be heard and determined by the governor and council, until the legislature shall, by law, make other provision.

Provisions for holding probate courts. 12 Gray, 147.

Marriage, divorce, and alimony. Other provisions made by law. 105 Mass. 327. 116 Mass. 817.

## CONSTITUTION OF THE

## CHAPTER IV.

## DELEGATES TO CONGRESS.

Delegates to  
congress.

[The delegates of this commonwealth to the congress of the United States, shall, some time in the month of June, annually, be elected by the joint ballot of the senate and house of representatives, assembled together in one room; to serve in congress for one year, to commence on the first Monday in November then next ensuing. They shall have commissions under the hand of the governor, and the great seal of the commonwealth; but may be recalled at any time within the year, and others chosen and commissioned, in the same manner, in their stead.]

## CHAPTER V.

## THE UNIVERSITY AT CAMBRIDGE, AND ENCOURAGEMENT OF LITERATURE, ETC.

## SECTION I.

*The University.*

Harvard  
College.

ARTICLE I. Whereas our wise and pious ancestors, so early as the year one thousand six hundred and thirty-six, laid the foundation of Harvard College, in which university many persons of great eminence have, by the blessing of GOD, been initiated in those arts and sciences which qualified them for public employments, both in church and state; and whereas the encouragement of arts and sciences, and all good literature, tends to the honor of GOD, the advantage of the Christian religion, and the great benefit of this and the other United States of America, — it is declared, that the PRESIDENT AND FELLOWS OF HARVARD COLLEGE, in their corporate capacity, and their successors in that capacity, their officers and servants, shall have, hold, use, exercise, and enjoy, all the powers, authorities, rights, liberties, privileges, immunities, and franchises, which they now have, or are entitled to have, hold, use, exercise, and enjoy; and the same are hereby ratified and confirmed unto them, the said president and fellows of Harvard College, and to their successors, and to their officers and servants, respectively, forever.

Powers, privi-  
leges, etc., of  
the president  
and fellows,  
confirmed.

II. And whereas there have been at sundry times, by divers persons, gifts, grants, devises of houses, lands, tenements, goods, chattels, legacies, and conveyances, heretofore made, either to Harvard College in Cambridge, in New England, or to the president and fellows of Harvard College, or to the said college by some other description, under several charters, successively; it is declared, that all the said gifts, grants, devises, legacies, and conveyances, are hereby forever confirmed unto the president and fellows of Harvard College, and to their successors in the capacity aforesaid, according to the true intent and meaning of the donor or donors, grantor or grantors, devisor or devisors.

All gifts,  
grants, etc.,  
confirmed.

III. And whereas, by an act of the general court of the colony of Massachusetts Bay, passed in the year one thousand six hundred and forty-two, the governor and deputy-governor, for the time being, and all the magistrates of that jurisdiction, were, with the president, and a number of the clergy in the said act described, constituted the overseers of Harvard College; and it being necessary, in this new constitution of government to ascertain who shall be deemed successors to the said governor, deputy-governor, and magistrates; it is declared, that the governor, lieutenant-governor, council, and senate of this commonwealth, are, and shall be deemed, their successors, who, with the president of Harvard College, for the time being, together with the ministers of the congregational churches in the towns of Cambridge, Watertown, Charlestown, Boston, Roxbury, and Dorchester, mentioned in the said act, shall be, and hereby are, vested with all the powers and authority belonging, or in any way appertaining to the overseers of Harvard College; provided, that nothing herein shall be construed to prevent the legislature of this commonwealth from making such alterations in the government of the said university, as shall be conducive to its advantage, and the interest of the republic of letters, in as full a manner as might have been done by the legislature of the late Province of the Massachusetts Bay.

Who shall be  
overseers.

See Statutes,  
1851, 224.  
1852, 27.,  
1859, 212.  
1865, 173.  
1880, 65.

Power of alteration reserved to  
the legislature.

## CHAPTER V.

## SECTION II.

*The Encouragement of Literature, etc.*

Duty of legislatures and magistrates in all future periods. For further provisions as to public schools, see amendments, Arts. XVIII. and XLVI. 12 Allen, 500-503. 103 Mass. 94, 97.

Wisdom and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people, it shall be the duty of legislatures and magistrates, in all future periods of this commonwealth, to cherish the interests of literature and the sciences, and all seminaries of them; especially the university at Cambridge, public schools and grammar schools in the towns; to encourage private societies and public institutions, rewards and immunities, for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and a natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and frugality, honesty and punctuality in their dealings; sincerity, good humor, and all social affections, and generous sentiments, among the people.

## CHAPTER VI.

OATHS AND SUBSCRIPTIONS; INCOMPATIBILITY OF AND EXCLUSION FROM OFFICES; PECUNIARY QUALIFICATIONS; COMMISSIONS; WRITS; CONFIRMATION OF LAWS; HABEAS CORPUS; THE ENACTING STYLE; CONTINUANCE OF OFFICERS; PROVISION FOR A FUTURE REVISAL OF THE CONSTITUTION, ETC.

Oaths, etc.

ARTICLE I. [Any person chosen governor, lieutenant-governor, councillor, senator, or representative, and accepting the trust, shall, before he proceed to execute the duties of his place or office, make and subscribe the following declaration, viz.:

Abolished. See amendments, Art. VII.

"I, A. B., do declare, that I believe the Christian religion, and have a firm persuasion of its truth; and that I am seised and possessed, in my own right, of the property required by the constitution, as one qualification for the office or place to which I am elected."

And the governor, lieutenant-governor, and councillors, shall make and subscribe the said declaration, in the presence of the two houses of assembly; and the senators and representatives, first elected under this constitution, before the president and five of the council of the former constitution; and forever afterwards before the governor and council for the time being.]

And every person chosen to either of the places or offices aforesaid, as also any person appointed or commissioned to any judicial, executive, military, or other office under the government, shall, before he enters on the discharge of the business of his place or office, take and subscribe the following declaration, and oaths or affirmations, viz.:

["I, A. B., do truly and sincerely acknowledge, profess, testify, and declare, that the Commonwealth of Massachusetts is, and of right ought to be, a free, sovereign, and independent state; and I do swear, that I will bear true faith and allegiance to the said commonwealth, and that I will defend the same against traitorous conspiracies and all hostile attempts whatsoever; and that I do renounce and abjure all allegiance, subjection, and obedience to the king, queen, or government of Great Britain (as the case may be), and every other foreign power whatsoever; and that no foreign prince, person, prelate, state, or potentate, hath, or ought to have, any jurisdiction, superiority, pre-eminence, authority, dispensing or other power, in any matter, civil, ecclesiastical, or spiritual, within this commonwealth, except the authority and power which is or may be vested by their constituents in the congress of the United States: and I do further testify and declare, that no man or body of men hath or can have any right to absolve or discharge me from the obligation of this oath, declaration, or affirmation; and that I do make this acknowledgment, profession, testimony, declaration, denial, renunciation, and abjuration, heartily and truly, according to the common meaning and acceptation of the foregoing words, without any equivocation, mental evasion, or secret reservation whatsoever. So help me, God."]

Declaration  
and oaths of  
all officers.

For new oath  
of allegiance,  
see amend-  
ments, Art. VI.

"I, A. B., do solemnly swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as \_\_\_\_\_, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution and the laws of the commonwealth. So help me, God."

Oath of office.

Proviso. See amendments, Art. VI.

Provided, always, that when any person chosen or appointed as aforesaid, shall be of the denomination of the people called Quakers, and shall decline taking the said oath[s], he shall make his affirmation in the foregoing form, and subscribe the same, omitting the words, [*"I do swear," "and abjure," "oath or," "and abjuration,"* in the first oath, and in the second oath, the words] *"swear and,"* and [in each of them] the words *"So help me, God;"* subjoining instead thereof, *"This I do under the pains and penalties of perjury."*

Oaths and affirmations, how administered.

And the said oaths or affirmations shall be taken and subscribed by the governor, lieutenant-governor, and councillors, before the president of the senate, in the presence of the two houses of assembly; and by the senators and representatives first elected under this constitution, before the president and five of the council of the former constitution; and forever afterwards before the governor and council for the time being; and by the residue of the officers aforesaid, before such persons and in such manner as from time to time shall be prescribed by the legislature.

Plurality of offices prohibited to governor, etc., except, etc. See amendments, Art. VIII.

II. No governor, lieutenant-governor, or judge of the supreme judicial court, shall hold any other office or place, under the authority of this commonwealth, except such as by this constitution they are admitted to hold, saving that the judges of the said court may hold the offices of justices of the peace through the state; nor shall they hold any other place or office, or receive any pension or salary from any other state or government or power whatever.

Same subject. 1 Allen, 553.

No person shall be capable of holding or exercising at the same time, within this state, more than one of the following offices, viz.: judge of probate — sheriff — register of probate — or register of deeds; and never more than any two offices, which are to be held by appointment of the governor, or the governor and council, or the senate, or the house of representatives, or by the election of the people of the state at large, or of the people of any county, military offices, and the offices of justices of the peace excepted, shall be held by one person.

Incompatible offices. For further provisions as to incompatible offices, see amendments, Art. VIII. Officers of Harvard College

No person holding the office of judge of the supreme judicial court — secretary — attorney-general — solicitor-general — treasurer or receiver-general — judge of probate — commissary-general — [president, professor, or instructor of Harvard College] — sheriff — clerk of the house of representatives — register of probate — register of deeds

— clerk of the supreme judicial court — clerk of the inferior court of common pleas — or officer of the customs, including in this description naval officers — shall at the same time have a seat in the senate or house of representatives; but their being chosen or appointed to, and accepting the same, shall operate as a resignation of their seat in the senate or house of representatives; and the place so vacated shall be filled up.

excepted by amendments, Art. XXVII.

And the same rule shall take place in case any judge of the said supreme judicial court, or judge of probate, shall accept a seat in council; or any councillor shall accept of either of those offices or places.

Incompatible offices.

And no person shall ever be admitted to hold a seat in the legislature, or any office of trust or importance under the government of this commonwealth, who shall, in the due course of law, have been convicted of bribery or corruption in obtaining an election or appointment.

Bribery, etc., disqualify.

III. In all cases where sums of money are mentioned in this constitution, the value thereof shall be computed in silver, at six shillings and eight pence per ounce; and it shall be in the power of the legislature, from time to time, to increase such qualifications, as to property, of the persons to be elected to offices, as the circumstances of the commonwealth shall require.

Value of money ascertained.

Property qualifications may be increased. See amendments, Arts. XIII. and XXXIV.

IV. All commissions shall be in the name of the Commonwealth of Massachusetts, signed by the governor and attested by the secretary or his deputy, and have the great seal of the commonwealth affixed thereto.

Provisions respecting commissions.

V. All writs, issuing out of the clerk's office in any of the courts of law, shall be in the name of the Commonwealth of Massachusetts; they shall be under the seal of the court from whence they issue; they shall bear test of the first justice of the court to which they shall be returnable, who is not a party, and be signed by the clerk of such court.

Provisions respecting writs. 2 Pick. 592. 3 Met. 58. 13 Gray, 74.

VI. All the laws which have heretofore been adopted, used, and approved in the Province, Colony, or State of Massachusetts Bay, and usually practised on in the courts of law, shall still remain and be in full force, until altered or repealed by the legislature; such parts only excepted as are repugnant to the rights and liberties contained in this constitution.

Continuation of former laws, except, etc. 1 Mass. 59. 2 Mass. 534. 8 Pick. 309, 316. 16 Pick. 107, 115. 2 Met. 118.

VII. The privilege and benefit of the writ of *habeas corpus* shall be enjoyed in this commonwealth, in the most free, easy, cheap, expeditious, and ample manner; and

Benefit of *habeas corpus* secured, except, etc.



shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a limited time, not exceeding twelve months.

The enacting style.

VIII. The enacting style, in making and passing all acts, statutes, and laws, shall be — “Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same.”

Officers of former government continued until, etc.

IX. To the end there may be no failure of justice, or danger arise to the commonwealth from a change of the form of government, all officers, civil and military, holding commissions under the government and people of Massachusetts Bay in New England, and all other officers of the said government and people, at the time this constitution shall take effect, shall have, hold, use, exercise, and enjoy, all the powers and authority to them granted or committed, until other persons shall be appointed in their stead; and all courts of law shall proceed in the execution of the business of their respective departments; and all the executive and legislative officers, bodies, and powers shall continue in full force, in the enjoyment and exercise of all their trusts, employments and authority; until the general court, and the supreme and executive officers under this constitution, are designated and invested with their respective trusts, powers, and authority.

Provision for revising constitution. For existing provision as to amendments, see amendments, Art. IX.

X. [In order the more effectually to adhere to the principles of the constitution, and to correct those violations which by any means may be made therein, as well as to form such alterations as from experience shall be found necessary, the general court which shall be in the year of our Lord one thousand seven hundred and ninety-five, shall issue precepts to the selectmen of the several towns, and to the assessors of the unincorporated plantations, directing them to convene the qualified voters of their respective towns and plantations, for the purpose of collecting their sentiments on the necessity or expediency of revising the constitution, in order to amendments.

Provision for revising constitution.

And if it shall appear, by the returns made, that two-thirds of the qualified voters throughout the state, who shall assemble and vote in consequence of the said precepts, are in favor of such revision or amendment, the general court shall issue precepts, or direct them to be issued from the secretary's office, to the several towns, to elect delegates to meet in convention for the purpose aforesaid.

The said delegates to be chosen in the same manner and proportion as their representatives in the second branch of the legislature are by this constitution to be chosen.]

XI. This form of government shall be enrolled on parchment, and deposited in the secretary's office, and be a part of the laws of the land; and printed copies thereof shall be prefixed to the book containing the laws of this commonwealth, in all future editions of the said laws.

Provision for preserving and publishing this constitution.

## ARTICLES OF AMENDMENT.

ARTICLE I. If any bill or resolve shall be objected to, and not approved by the governor; and if the general court shall adjourn within five days after the same shall have been laid before the governor for his approbation, and thereby prevent his returning it with his objections, as provided by the constitution, such bill or resolve shall not become a law, nor have force as such.

Bill, etc., not approved within five days, not to become a law, if legislature adjourn in the mean time. 3 Mass. 567. See Const. Ch. I., § 1, Art. II.

ART. II. The general court shall have full power and authority to erect and constitute municipal or city governments, in any corporate town or towns in this commonwealth, and to grant to the inhabitants thereof such powers, privileges, and immunities, not repugnant to the constitution, as the general court shall deem necessary or expedient for the regulation and government thereof, and to prescribe the manner of calling and holding public meetings of the inhabitants, in wards or otherwise, for the election of officers under the constitution, and the manner of returning the votes given at such meetings. Provided, that no such government shall be erected or constituted in any town not containing twelve thousand inhabitants, nor unless it be with the consent, and on the application of a majority of the inhabitants of such town, present and voting thereon, pursuant to a vote at a meeting duly warned and holden for that purpose. And provided, also, that all by-laws, made by such municipal or city government, shall be subject, at all times, to be annulled by the general court.

General Court empowered to charter cities. 122 Mass. 354. See amendments, Art. XLVII.

Proviso. 112 Mass. 200.

ART. III. Every male citizen of twenty-one years of age and upwards, excepting paupers and persons under guardianship, who shall have resided within the commonwealth one year, and within the town or district in which

Qualifications of voters for governor, lieutenant-governor, senators and

representatives.  
See amendments, Arts. XXX., XXXII., XL. and XLV.  
11 Pick. 538, 540.  
14 Pick. 341.  
14 Mass. 367.  
5 Met. 162, 298, 591, 594.  
7 Gray, 299.  
122 Mass. 595, 597.  
124 Mass. 596.  
For educational qualification, see amendments, Art. XX.

he may claim a right to vote, six calendar months next preceding any election of governor, lieutenant-governor, senators, or representatives, [and who shall have paid, by himself, or his parent, master, or guardian, any state or county tax, which shall, within two years next preceding such election, have been assessed upon him, in any town or district of this commonwealth; and also every citizen who shall be, by law, exempted from taxation, and who shall be, in all other respects, qualified as above mentioned,] shall have a right to vote in such election of governor, lieutenant-governor, senators, and representatives; and no other person shall be entitled to vote in such election.

For provision as to those who have served in the army or navy in time of war, see amendments, Arts. XXVIII. and XXXI. See also amendments, Art. XXIII., which was annulled by amendments, Art. XXVI. For absentee voting, see amendments, Art. XLV.

Notaries public, how appointed and removed.

ART. IV. Notaries public shall be appointed by the governor in the same manner as judicial officers are appointed, and shall hold their offices during seven years, unless sooner removed by the governor, with the consent of the council, upon the address of both houses of the legislature.

See amendments, Art. XXXVII.

Vacancies in the offices of secretary and treasurer, how filled.  
This clause superseded by amendments, Art. XVII.

[In case the office of secretary or treasurer of the commonwealth shall become vacant from any cause, during the recess of the general court, the governor, with the advice and consent of the council, shall nominate and appoint, under such regulations as may be prescribed by law, a competent and suitable person to such vacant office, who shall hold the same until a successor shall be appointed by the general court.]

Commissary-general may be appointed, in case, etc.

Whenever the exigencies of the commonwealth shall require the appointment of a commissary-general, he shall be nominated, appointed, and commissioned, in such manner as the legislature may, by law, prescribe.

Militia officers, how removed.

All officers commissioned to command in the militia may be removed from office in such manner as the legislature may, by law, prescribe.

Who may vote for captains and subalterns.

ART. V. In the elections of captains and subalterns of the militia, all the members of their respective companies, as well those under as those above the age of twenty-one years, shall have a right to vote.

Oath to be taken by all officers.  
See Const., Ch. VI., Art. I.

ART. VI. Instead of the oath of allegiance prescribed by the constitution, the following oath shall be taken and subscribed by every person chosen or appointed to any

office, civil or military, under the government of this commonwealth, before he shall enter on the duties of his office, to wit:—

“I, A. B., do solemnly swear, that I will bear true faith and allegiance to the Commonwealth of Massachusetts, and will support the constitution thereof. So help me, God.”

*Provided*, That when any person shall be of the denomination called Quakers, and shall decline taking said oath, he shall make his affirmation in the foregoing form, omitting the word “swear” and inserting, instead thereof, the word “affirm,” and omitting the words “So help me, God,” and subjoining, instead thereof, the words, “This I do under the pains and penalties of perjury.”

*Proviso.*  
Quakers may  
affirm.

ART. VII. No oath, declaration, or subscription, excepting the oath prescribed in the preceding article, and the oath of office, shall be required of the governor, lieutenant-governor, councillors, senators, or representatives, to qualify them to perform the duties of their respective offices.

*Tests abolished.*

ART. VIII. No judge of any court of this commonwealth, (except the court of sessions,) and no person holding any office under the authority of the United States, (postmasters excepted,) shall, at the same time, hold the office of governor, lieutenant-governor, or councillor, or have a seat in the senate or house of representatives of this commonwealth; and no judge of any court in this commonwealth, (except the court of sessions,) nor the attorney-general, solicitor-general, county attorney, clerk of any court, sheriff, treasurer and receiver-general, register of probate, nor register of deeds, shall continue to hold his said office after being elected a member of the Congress of the United States, and accepting that trust; but the acceptance of such trust, by any of the officers aforesaid, shall be deemed and taken to be a resignation of his said office; and judges of the courts of common pleas shall hold no other office under the government of this commonwealth, the office of justice of the peace and militia offices excepted.

*Incompatibility of offices.*  
122 Mass. 445,  
600.  
123 Mass. 525.

ART. IX. If, at any time hereafter, any specific and particular amendment or amendments to the constitution be proposed in the general court, and agreed to by a majority of the senators and two-thirds of the members of the house of representatives present and voting thereon,

*Amendments to constitution, how made.*

such proposed amendment or amendments shall be entered on the journals of the two houses, with the yeas and nays taken thereon, and referred to the general court then next to be chosen, and shall be published; and if, in the general court next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of the senators and two-thirds of the members of the house of representatives present and voting thereon, then it shall be the duty of the general court to submit such proposed amendment or amendments to the people; and if they shall be approved and ratified by a majority of the qualified voters, voting thereon, at meetings legally warned and holden for that purpose, they shall become part of the constitution of this commonwealth.

Commence-  
ment of politi-  
cal year,

and termina-  
tion.

ART. X. The political year shall begin on the first Wednesday of January, instead of the last Wednesday of May; and the general court shall assemble every year on the said first Wednesday of January, and shall proceed, at that session, to make all the elections, and do all the other acts, which are by the constitution required to be made and done at the session which has heretofore commenced on the last Wednesday of May. And the general court shall be dissolved on the day next preceding the first Wednesday of January, without any proclamation or other act of the governor. But nothing herein contained shall prevent the general court from assembling at such other times as they shall judge necessary, or when called together by the governor. The governor, lieutenant-governor and councillors, shall also hold their respective offices for one year next following the first Wednesday of January, and until others are chosen and qualified in their stead.

Meetings for the  
choice of gov-  
ernor, lieuten-  
ant-governor,  
etc., when to  
be held.  
This clause  
superseded by  
amendments,  
Art. XV.

[The meeting for the choice of governor, lieutenant-governor, senators, and representatives, shall be held on the second Monday of November in every year; but meetings may be adjourned, if necessary, for the choice of representatives, to the next day, and again to the next succeeding day, but no further. But in case a second meeting shall be necessary for the choice of representatives, such meetings shall be held on the fourth Monday of the same month of November.]

All the other provisions of the constitution, respecting the elections and proceedings of the members of the general court, or of any other officers or persons whatever, that have reference to the last Wednesday of May, as the com-

mencement of the political year, shall be so far altered, as to have like reference to the first Wednesday of January.

This article shall go into operation on the first day of October, next following the day when the same shall be duly ratified and adopted as an amendment of the constitution; and the governor, lieutenant-governor, councillors, senators, representatives, and all other state officers, who are annually chosen, and who shall be chosen for the current year, when the same shall go into operation, shall hold their respective offices until the first Wednesday of January then next following, and until others are chosen and qualified in their stead, and no longer; and the first election of the governor, lieutenant-governor, senators, and representatives, to be had in virtue of this article, shall be had conformably thereunto, in the month of November following the day on which the same shall be in force, and go into operation, pursuant to the foregoing provision.

Article, when to go into operation.

All the provisions of the existing constitution, inconsistent with the provisions herein contained, are hereby wholly annulled.

Inconsistent provisions annulled.

ART. XI. Instead of the third article of the bill of rights, the following modification and amendment thereof is substituted:—

Religious freedom established. See Dec. of Rights, Art. III. See amendments, Art. XLVI.

“As the public worship of God and instructions in piety, religion, and morality, promote the happiness and prosperity of a people, and the security of a republican government; therefore, the several religious societies of this commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses; and all persons belonging to any religious society shall be taken and held to be members, until they shall file with the clerk of such society a written notice, declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made, or entered into by such society; and all religious sects and denominations, demeaning themselves peaceably, and as good citizens of the commonwealth, shall be equally under the protection of the law; and no subordination of any one

122 Mass. 40, 41.

sect or denomination to another shall ever be established by law."

Census of ratable polls to be taken in 1837, and decennially thereafter. This article was superseded by amendments, Art. XIII., which was also superseded by amendments, Art. XXI. Representatives, how apportioned.

ART. XII. [In order to provide for a representation of the citizens of this commonwealth, founded upon the principles of equality, a census of the ratable polls, in each city, town, and district of the commonwealth, on the first day of May, shall be taken and returned into the secretary's office, in such manner as the legislature shall provide, within the month of May, in the year of our Lord one thousand eight hundred and thirty-seven, and in every tenth year thereafter, in the month of May, in manner aforesaid; and each town or city having three hundred ratable polls at the last preceding decennial census of polls, may elect one representative, and for every four hundred and fifty ratable polls in addition to the first three hundred, one representative more.

Towns having less than 300 ratable polls, how represented.

Any town having less than three hundred ratable polls shall be represented thus: The whole number of ratable polls, at the last preceding decennial census of polls, shall be multiplied by ten, and the product divided by three hundred; and such town may elect one representative as many years within ten years, as three hundred is contained in the product aforesaid.

Fractions, how represented.

Any city or town having ratable polls enough to elect one or more representatives, with any number of polls beyond the necessary number, may be represented, as to that surplus number, by multiplying such surplus number by ten and dividing the product by four hundred and fifty; and such city or town may elect one additional representative as many years, within the ten years, as four hundred and fifty is contained in the product aforesaid.

Towns may unite into representative districts.

Any two or more of the several towns and districts may, by consent of a majority of the legal voters present at a legal meeting, in each of said towns and districts, respectively, called for that purpose, and held previous to the first day of July, in the year in which the decennial census of polls shall be taken, form themselves into a representative district to continue until the next decennial census of polls, for the election of a representative, or representatives; and such district shall have all the rights, in regard to representation, which would belong to a town containing the same number of ratable polls.

The governor and council to determine the

The governor and council shall ascertain and determine, within the months of July and August, in the year of our

Lord one thousand eight hundred and thirty-seven, according to the foregoing principles, the number of representatives, which each city, town, and representative district is entitled to elect, and the number of years, within the period of ten years then next ensuing, that each city, town, and representative district may elect an additional representative; and where any town has not a sufficient number of polls to elect a representative each year, then, how many years within the ten years, such town may elect a representative; and the same shall be done once in ten years, thereafter, by the governor and council, and the number of ratable polls in each decennial census of polls, shall determine the number of representatives, which each city, town and representative district may elect as aforesaid; and when the number of representatives to be elected by each city, town, or representative district is ascertained and determined as aforesaid, the governor shall cause the same to be published forthwith for the information of the people, and that number shall remain fixed and unalterable for the period of ten years.

number of representatives to which each town is entitled.

New apportionment to be made once in every ten years.

All the provisions of the existing constitution inconsistent with the provisions herein contained, are hereby wholly annulled.]

Inconsistent provisions annulled.

ART. XIII. [A census of the inhabitants of each city and town, on the first day of May, shall be taken, and returned into the secretary's office, on or before the last day of June, of the year one thousand eight hundred and forty, and of every tenth year thereafter; which census shall determine the apportionment of senators and representatives for the term of ten years.

122 Mass. 593.

Census of inhabitants to be taken in 1840, and decennially thereafter, for basis of representation. Provisions as to census superseded by amendments, Arts. XXI. and XXII. Senatorial districts declared permanent. Provisions as to senators superseded by amendments, Art. XXII.

The several senatorial districts now existing shall be permanent. The senate shall consist of forty members; and in the year one thousand eight hundred and forty, and every tenth year thereafter, the governor and council shall assign the number of senators to be chosen in each district, according to the number of inhabitants in the same. But, in all cases, at least one senator shall be assigned to each district.

The members of the house of representatives shall be apportioned in the following manner: Every town or city containing twelve hundred inhabitants may elect one representative; and two thousand four hundred inhabitants shall be the mean increasing number, which shall entitle it to an additional representative.

House of representatives, how apportioned. Provisions as to representatives superseded by amendments, Art. XXI.



Small towns,  
how repre-  
sented.

Every town containing less than twelve hundred inhabitants shall be entitled to elect a representative as many times within ten years as the number one hundred and sixty is contained in the number of the inhabitants of said town. Such towns may also elect one representative for the year in which the valuation of estates within the commonwealth shall be settled.

Towns may  
unite into  
representative  
districts.

Any two or more of the several towns may, by consent of a majority of the legal voters present at a legal meeting, in each of said towns, respectively, called for that purpose, and held before the first day of August, in the year one thousand eight hundred and forty, and every tenth year thereafter, form themselves into a representative district, to continue for the term of ten years; and such district shall have all the rights, in regard to representation, which would belong to a town containing the same number of inhabitants.

Basis of  
representation,  
and ratio of  
increase.

The number of inhabitants which shall entitle a town to elect one representative, and the mean increasing number which shall entitle a town or city to elect more than one, and also the number by which the population of towns not entitled to a representative every year is to be divided, shall be increased, respectively, by one-tenth of the numbers above mentioned, whenever the population of the commonwealth shall have increased to seven hundred and seventy thousand, and for every additional increase of seventy thousand inhabitants, the same addition of one-tenth shall be made, respectively, to the said numbers above mentioned.

The governor  
and council to  
apportion the  
number of  
representatives  
of each town  
once in every  
ten years.

In the year of each decennial census, the governor and council shall, before the first day of September, apportion the number of representatives which each city, town, and representative district is entitled to elect, and ascertain how many years, within ten years, any town may elect a representative, which is not entitled to elect one every year; and the governor shall cause the same to be published forthwith.

Councillors to  
be chosen from  
the people at  
large.  
Provisions as  
to councillors  
superseded by  
amendments,  
Art. XVI.

Nine councillors shall be annually chosen from among the people at large, on the first Wednesday of January, or as soon thereafter as may be, by the joint ballot of the senators and representatives, assembled in one room, who shall, as soon as may be, in like manner, fill up any vacancies that may happen in the council, by death, resignation, or otherwise. No person shall be elected a councillor, who

Qualifications  
of councillors.

has not been an inhabitant of this commonwealth for the term of five years immediately preceding his election; and not more than one councillor shall be chosen from any one senatorial district in the commonwealth.]

No possession of a freehold, or of any other estate, shall be required as a qualification for holding a seat in either branch of the general court, or in the executive council.

Freehold as a qualification for a seat in general court or council not required.  
Elections by the people to be by plurality of votes.

ART. XIV. In all elections of civil officers by the people of this commonwealth, whose election is provided for by the constitution, the person having the highest number of votes shall be deemed and declared to be elected.

ART. XV. The meeting for the choice of governor, lieutenant-governor, senators, and representatives, shall be held on the Tuesday next after the first Monday in November, annually; but in case of a failure to elect representatives on that day, a second meeting shall be holden, for that purpose, on the fourth Monday of the same month of November.

Time of annual election of governor and legislature.

ART. XVI. Eight councillors shall be annually chosen by the inhabitants of this commonwealth, qualified to vote for governor. The election of councillors shall be determined by the same rule that is required in the election of governor. The legislature, at its first session after this amendment shall have been adopted, and at its first session after the next state census shall have been taken, and at its first session after each decennial state census thereafter, shall divide the commonwealth into eight districts of contiguous territory, each containing a number of inhabitants as nearly equal as practicable, without dividing any town or ward of a city, and each entitled to elect one councillor: *provided, however*, that if, at any time, the constitution shall provide for the division of the commonwealth into forty senatorial districts, then the legislature shall so arrange the councillor districts, that each district shall consist of five contiguous senatorial districts, as they shall be, from time to time, established by the legislature. No person shall be eligible to the office of councillor who has not been an inhabitant of the commonwealth for the term of five years immediately preceding his election. The day and manner of the election, the return of the votes, and the declaration of the said elections, shall be the same as are required in the election of governor. [Whenever there shall be a failure to elect the full number of councillors, the vacancies shall be filled in the same

Eight councillors to be chosen by the people.  
122 Mass. 595, 598.

Legislature to district state.

Eligibility defined.

Day and manner of election, etc.

Vacancies, how filled.  
For new pro-

vision as to  
vacancies, see  
amendments,  
Art. XXV.

• Organisation of  
the govern-  
ment.

Election of  
secretary,  
treasurer,  
auditor, and  
attorney-gen-  
eral by the  
people.

Vacancies,  
how filled.

manner as is required for filling vacancies in the senate; and vacancies occasioned by death, removal from the state, or otherwise, shall be filled in like manner, as soon as may be, after such vacancies shall have happened.] And that there may be no delay in the organization of the government on the first Wednesday of January, the governor, with at least five councillors for the time being, shall, as soon as may be, examine the returned copies of the records for the election of governor, lieutenant-governor, and councillors; and ten days before the said first Wednesday in January he shall issue his summons to such persons as appear to be chosen, to attend on that day to be qualified accordingly; and the secretary shall lay the returns before the senate and house of representatives on the said first Wednesday in January, to be by them examined; and in case of the election of either of said officers, the choice shall be by them declared and published; but in case there shall be no election of either of said officers, the legislature shall proceed to fill such vacancies in the manner provided in the constitution for the choice of such officers.

ART. XVII. The secretary, treasurer and receiver-general, auditor, and attorney-general, shall be chosen annually, on the day in November prescribed for the choice of governor; and each person then chosen as such, duly qualified in other respects, shall hold his office for the term of one year from the third Wednesday in January next thereafter, and until another is chosen and qualified in his stead. The qualification of the voters, the manner of the election, the return of the votes, and the declaration of the election, shall be such as are required in the election of governor. In case of a failure to elect either of said officers on the day in November aforesaid, or in case of the decease, in the mean time, of the person elected as such, such officer shall be chosen on or before the third Wednesday in January next thereafter, from the two persons who had the highest number of votes for said offices on the day in November aforesaid, by joint ballot of the senators and representatives, in one room; and in case the office of secretary, or treasurer and receiver-general, or auditor, or attorney-general, shall become vacant, from any cause, during an annual or special session of the general court, such vacancy shall in like manner be filled by choice from the people at large; but if such vacancy shall occur at any other time, it shall be supplied

by the governor by appointment, with the advice and consent of the council. The person so chosen or appointed, duly qualified in other respects, shall hold his office until his successor is chosen and duly qualified in his stead. In case any person chosen or appointed to either of the offices aforesaid, shall neglect, for the space of ten days after he could otherwise enter upon his duties, to qualify himself in all respects to enter upon the discharge of such duties, the office to which he has been elected or appointed shall be deemed vacant. No person shall be eligible to either of said offices unless he shall have been an inhabitant of this commonwealth five years next preceding his election or appointment.

To qualify within ten days, otherwise office to be deemed vacant.

Qualification requisite.

ART. XVIII. [All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the state for the support of common schools, shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is to be expended; and such moneys shall never be appropriated to any religious sect for the maintenance, exclusively, of its own school.]

School moneys not to be applied for sectarian schools. For original provision as to schools, see constitution, Part First, Art. III. 12 Allen, 500, 503. 103 Mass. 94, 96. This article was superseded by amendments, Art. XLVI.

ART. XIX. The legislature shall prescribe, by general law, for the election of sheriffs, registers of probate, [commissioners of insolvency,] and clerks of the courts, by the people of the several counties, and that district-attorneys shall be chosen by the people of the several districts, for such term of office as the legislature shall prescribe:

Legislature to prescribe for the election of sheriffs, registers of probate, etc. See amendments, Art. XXXVI. 8 Gray, 1. 13 Gray, 74.

110 Mass. 172, 173.

117 Mass. 602, 603.

121 Mass. 65.

ART. XX. No person shall have the right to vote, or be eligible to office under the constitution of this commonwealth, who shall not be able to read the constitution in the English language, and write his name: *provided, however*, that the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any persons who shall be sixty years of age or upwards at the time this amendment shall take effect.

For absentee voting, see amendments, Art. XLV.

Reading constitution in English and writing, necessary qualifications of voters. Proviso. For other qualifications, see amendments, Art. III. See also amendments, Art. XXIII., which was annulled by amendments, Art. XXVI.

ART. XXI. A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the commonwealth, on or before the last day of June, in the year one

Census of legal voters and of inhabitants, when taken, etc. See P. S. c. 31.

thousand eight hundred and fifty-seven; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters; and in each city, said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of representatives for the periods between the taking of the census.

House of representatives to consist of 240 members. Legislature to apportion, etc. 10 Gray, 613.

The house of representatives shall consist of two hundred and forty members, which shall be apportioned by the legislature, at its first session after the return of each enumeration as aforesaid, to the several counties of the commonwealth, equally, as nearly as may be, according to their relative numbers of legal voters, as ascertained by the next preceding special enumeration; and the town of Cohasset, in the county of Norfolk, shall, for this purpose, as well as in the formation of districts, as hereinafter provided, be considered a part of the county of Plymouth; and it shall be the duty of the secretary of the commonwealth, to certify, as soon as may be after it is determined by the legislature, the number of representatives to which each county shall be entitled, to the board authorized to divide each county into representative districts. The mayor and aldermen of the city of Boston, the county commissioners of other counties than Suffolk, — or in lieu of the mayor and aldermen of the city of Boston, or of the county commissioners in each county other than Suffolk, such board of special commissioners in each county, to be elected by the people of the county, or of the towns therein, as may for that purpose be provided by law, — shall, on the first Tuesday of August next after each assignment of representatives to each county, assemble at a shire town of their respective counties, and proceed, as soon as may be, to divide the same into representative districts of contiguous territory, so as to apportion the representation assigned to each county equally, as nearly as may be, according to the relative number of legal voters in the several districts of each county; and such districts shall be so formed that no town or ward of a city shall be divided therefor, nor shall any district be made which shall be entitled to elect more than three representatives. Every representative, for one year at least next preceding

Secretary shall certify to officers authorized to divide counties.

Meeting for division to be first Tuesday in August. Proceedings.

Qualifications of representa-

his election, shall have been an inhabitant of the district for which he is chosen, and shall cease to represent such district when he shall cease to be an inhabitant of the commonwealth. The districts in each county shall be numbered by the board creating the same, and a description of each, with the numbers thereof and the number of legal voters therein, shall be returned by the board, to the secretary of the commonwealth, the county treasurer of each county, and to the clerk of every town in each district, to be filed and kept in their respective offices. The manner of calling and conducting the meetings for the choice of representatives, and of ascertaining their election, shall be prescribed by law. [Not less than one hundred members of the house of representatives shall constitute a quorum for doing business; but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.]

tives.  
122 Mass. 595,  
598.

Districts to be  
numbered,  
described and  
certified.

Quorum, see  
amendments,  
Art. XXXIII.

ART. XXII. A census of the legal voters of each city and town, on the first day of May, shall be taken and returned into the office of the secretary of the commonwealth, on or before the last day of June, in the year one thousand eight hundred and fifty-seven; and a census of the inhabitants of each city and town, in the year one thousand eight hundred and sixty-five, and of every tenth year thereafter. In the census aforesaid, a special enumeration shall be made of the legal voters, and in each city said enumeration shall specify the number of such legal voters aforesaid, residing in each ward of such city. The enumeration aforesaid shall determine the apportionment of senators for the periods between the taking of the census. The senate shall consist of forty members. The general court shall, at its first session after each next preceding special enumeration, divide the commonwealth into forty districts of adjacent territory, each district to contain, as nearly as may be, an equal number of legal voters, according to the enumeration aforesaid: *provided, however*, that no town or ward of a city shall be divided therefor; and such districts shall be formed, as nearly as may be, without uniting two counties, or parts of two or more counties, into one district. Each district shall elect one senator, who shall have been an inhabitant of this commonwealth five years at least immediately preceding his election, and at the time of his election shall be an inhabitant of the district for which he is chosen; and he shall

Census, etc.  
See P. S. c. 31.

Voters to be  
basis of apportionment of  
senators.

Senate to consist of forty  
members.

Senatorial  
districts, etc.

See amendments,  
Art. XXIV.

Qualifications  
of senators.

Quorum, see  
amendments,  
Art. XXXIII.

cease to represent such senatorial district when he shall cease to be an inhabitant of the commonwealth. [Not less than sixteen senators shall constitute a quorum for doing business; but a less number may organize temporarily, adjourn from day to day, and compel the attendance of absent members.]

Residence of  
two years re-  
quired of natu-  
ralized citizens,  
to entitle to  
suffrage or  
make eligible  
to office.  
This article  
annulled by  
Art. XXVI.

ART. XXIII. [No person of foreign birth shall be entitled to vote, or shall be eligible to office, unless he shall have resided within the jurisdiction of the United States for two years subsequent to his naturalization, and shall be otherwise qualified, according to the constitution and laws of this commonwealth: *provided*, that this amendment shall not affect the rights which any person of foreign birth possessed at the time of the adoption thereof; and, *provided, further*, that it shall not affect the rights of any child of a citizen of the United States, born during the temporary absence of the parent therefrom.]

Vacancies in  
the senate.

ART. XXIV. Any vacancy in the senate shall be filled by election by the people of the unrepresented district, upon the order of a majority of the senators elected.

Vacancies in  
the council.

ART. XXV. In case of a vacancy in the council, from a failure of election, or other cause, the senate and house of representatives shall, by concurrent vote, choose some eligible person from the people of the district wherein such vacancy occurs, to fill that office. If such vacancy shall happen when the legislature is not in session, the governor, with the advice and consent of the council, may fill the same by appointment of some eligible person.

Twenty-third  
article of  
amendments  
annulled.

ART. XXVI. The twenty-third article of the articles of amendment of the constitution of this commonwealth, which is as follows, to wit: "No person of foreign birth shall be entitled to vote, or shall be eligible to office, unless he shall have resided within the jurisdiction of the United States for two years subsequent to his naturalization, and shall be otherwise qualified, according to the constitution and laws of this commonwealth: *provided*, that this amendment shall not affect the rights which any person of foreign birth possessed at the time of the adoption thereof; and *provided, further*, that it shall not affect the rights of any child of a citizen of the United States, born during the temporary absence of the parent therefrom," is hereby wholly annulled.

Provisions of  
Art. II., Chap.  
VI., relating to

ART. XXVII. So much of article two of chapter six of the constitution of this commonwealth as relates to per-

sons holding the office of president, professor, or instructor of Harvard College, is hereby annulled.

officers of Harvard College, annulled.

ART. XXVIII. No person having served in the army or navy of the United States in time of war, and having been honorably discharged from such service, if otherwise qualified to vote, shall be disqualified therefor on account of being a pauper; or, if a pauper, because of the non-payment of a poll tax.

Superseded by Art. XXXI.

ART. XXIX. The general court shall have full power and authority to provide for the inhabitants of the towns in this commonwealth more than one place of public meeting within the limits of each town for the election of officers under the constitution, and to prescribe the manner of calling, holding and conducting such meetings. All the provisions of the existing constitution inconsistent with the provisions herein contained are hereby annulled.

Voting precincts in towns. For absentee voting provision, see amendments, Art. XLV.

ART. XXX. No person, otherwise qualified to vote in elections for governor, lieutenant-governor, senators, and representatives, shall, by reason of a change of residence within the commonwealth, be disqualified from voting for said officers in the city or town from which he has removed his residence, until the expiration of six calendar months from the time of such removal.

Voters not disqualified by reason of change of residence until six months from time of removal. For absentee voting provision, see amendments, Art. XLV.

ART. XXXI. Article twenty-eight of the amendments of the constitution is hereby amended by striking out in the fourth line thereof the words "being a pauper", and inserting in place thereof the words: — receiving or having received aid from any city or town, — and also by striking out in said fourth line the words "if a pauper", so that the article as amended shall read as follows: ARTICLE XXVIII. No person having served in the army or navy of the United States in time of war, and having been honorably discharged from such service, if otherwise qualified to vote, shall be disqualified therefor on account of receiving or having received aid from any city or town, or because of the non-payment of a poll tax.

Amendments, Art. XXVIII, amended.

ART. XXXII. So much of article three of the amendments of the constitution of the commonwealth as is contained in the following words: "and who shall have paid, by himself, or his parent, master, or guardian, any state or county tax, which shall, within two years next preceding such election, have been assessed upon him, in any town or district of this commonwealth; and also every citizen who shall be, by law, exempted from taxation, and who

Person who served in army or navy, etc., not disqualified from voting for non-payment of poll tax.

Provisions of amendments, Art. III., relative to payment of a tax as a voting qualification, annulled.



shall be, in all other respects, qualified as above mentioned", is hereby annulled.

Quorum, in each branch of the general court, to consist of a majority of members.

ART. XXXIII. A majority of the members of each branch of the general court shall constitute a quorum for the transaction of business, but a less number may adjourn from day to day, and compel the attendance of absent members. All the provisions of the existing constitution inconsistent with the provisions herein contained are hereby annulled.

Provisions of Art. II., § I., Chap. II., Part II., relative to property qualification of governor, annulled.

ART. XXXIV. So much of article two of section one of chapter two of part the second of the constitution of the commonwealth as is contained in the following words: "and unless he shall at the same time be seised, in his own right, of a freehold, within the commonwealth, of the value of one thousand pounds"; is hereby annulled.

Provisions of Art. II., § III., Chap. I., relative to expense of travelling to the general assembly by members of the house, annulled.

ART. XXXV. So much of article two of section three of chapter one of the constitution of the commonwealth as is contained in the following words: "The expenses of travelling to the general assembly, and returning home, once in every session, and no more, shall be paid by the government, out of the public treasury, to every member who shall attend as seasonably as he can, in the judgment of the house, and does not depart without leave", is hereby annulled.

Amendments, Art. XIX., amended.

ART. XXXVI. So much of article nineteen of the articles of amendment to the constitution of the commonwealth as is contained in the following words: "commissioners of insolvency", is hereby annulled.

Removal of certain officers.

ART. XXXVII. The governor, with the consent of the council, may remove justices of the peace and notaries public.

Voting machines may be used at elections.

ART. XXXVIII. Voting machines or other mechanical devices for voting may be used at all elections under such regulations as may be prescribed by law: *provided, however*, that the right of secret voting shall be preserved.

Powers of the legislature relative to the taking of land, etc., for widening or relocating highways, etc.

ART. XXXIX. Article ten of part one of the constitution is hereby amended by adding to it the following words: — The legislature may by special acts for the purpose of laying out, widening or relocating highways or streets, authorize the taking in fee by the commonwealth, or by a county, city or town, of more land and property than are needed for the actual construction of such highway or street: *provided, however*, that the land and property authorized to be taken are specified in the act and are no more in extent than would be sufficient for suit-

Proviso.

able building lots on both sides of such highway or street, and after so much of the land or property has been appropriated for such highway or street as is needed therefor, may authorize the sale of the remainder for value with or without suitable restrictions.

ART. XL. Article three of the amendments to the constitution is hereby amended by inserting after the word "guardianship", in line two, the following:— and persons temporarily or permanently disqualified by law because of corrupt practices in respect to elections.

Amendments,  
Art. III,  
amended.

ART. XLI. Full power and authority are hereby given and granted to the general court to prescribe for wild or forest lands such methods of taxation as will develop and conserve the forest resources of the commonwealth.

Taxation of  
wild or forest  
lands.

ART. XLII. Full power and authority are hereby given and granted to the general court to refer to the people for their rejection or approval at the polls any act or resolve of the general court or any part or parts thereof. Such reference shall be by a majority yeas and nays vote of all members of each house present and voting. Any act, resolve, or part thereof so referred shall be voted on at the regular state election next ensuing after such reference, shall become law if approved by a majority of the voters voting thereon, and shall take effect at the expiration of thirty days after the election at which it was approved or at such time after the expiration of the said thirty days as may be fixed in such act, resolve or part thereof.

Referendum.

ART. XLIII. The general court shall have power to authorize the commonwealth to take land and to hold, improve, sub-divide, build upon and sell the same, for the purpose of relieving congestion of population and providing homes for citizens: *provided, however*, that this amendment shall not be deemed to authorize the sale of such land or buildings at less than the cost thereof.

Powers of the  
general court  
relative to the  
taking of land,  
etc., to relieve  
congestion of  
population  
and to provide  
homes for  
citizens.

Proviso.

ART. XLIV. Full power and authority are hereby given and granted to the general court to impose and levy a tax on income in the manner hereinafter provided. Such tax may be at different rates upon income derived from different classes of property, but shall be levied at a uniform rate throughout the commonwealth upon incomes derived from the same class of property. The general court may tax income not derived from property at a lower rate than income derived from property, and may grant reasonable exemptions and abatements. Any class of property the

Powers of the  
general court  
relative to  
imposing and  
levying a tax  
on income;  
exemptions,  
etc.

income from which is taxed under the provisions of this article may be exempted from the imposition and levying of proportional and reasonable assessments, rates and taxes as at present authorized by the constitution. This article shall not be construed to limit the power of the general court to impose and levy reasonable duties and excises.

Powers of the general court to provide by law for absentee voting.

ART. XLV. The general court shall have power to provide by law for voting by qualified voters of the commonwealth who, at the time of an election, are absent from the city or town of which they are inhabitants in the choice of any officer to be elected or upon any question submitted at such election.

No law to prohibit free exercise of religion.

ART. XLVI. (In place of article XVIII of the articles of amendment of the constitution ratified and adopted April 9, 1821, the following article of amendment, submitted by the constitutional convention, was ratified and adopted November 6, 1917.) ARTICLE XVIII. *Section 1.* No law shall be passed prohibiting the free exercise of religion.

Public money not to be expended to aid educational, charitable, religious or other institutions not wholly under public ownership and control, etc.

*Section 2.* All moneys raised by taxation in the towns and cities for the support of public schools, and all moneys which may be appropriated by the commonwealth for the support of common schools shall be applied to, and expended in, no other schools than those which are conducted according to law, under the order and superintendence of the authorities of the town or city in which the money is expended; and no grant, appropriation or use of public money or property or loan of public credit shall be made or authorized by the commonwealth or any political division thereof for the purpose of founding, maintaining or aiding any school or institution of learning, whether under public control or otherwise, wherein any denominational doctrine is inculcated, or any other school, or any college, infirmary, hospital, institution, or educational, charitable or religious undertaking which is not publicly owned and under the exclusive control, order and superintendence of public officers or public agents authorized by the commonwealth or federal authority or both, except that appropriations may be made for the maintenance and support of the Soldiers' Home in Massachusetts and for free public libraries in any city or town, and to carry out legal obligations, if any, already entered into; and no such grant, appropriation or use of public money or property

Exceptions.

or loan of public credit shall be made or authorized for the purpose of founding, maintaining or aiding any church, religious denomination or society.

*Section 3.* Nothing herein contained shall be construed to prevent the commonwealth, or any political division thereof, from paying to privately controlled hospitals, infirmaries, or institutions for the deaf, dumb or blind not more than the ordinary and reasonable compensation for care or support actually rendered or furnished by such hospitals, infirmaries or institutions to such persons as may be in whole or in part unable to support or care for themselves.

Care or support in private hospitals, etc., of persons who are public charges.

*Section 4.* Nothing herein contained shall be construed to deprive any inmate of a publicly controlled reformatory, penal or charitable institution of the opportunity of religious exercises therein of his own faith; but no inmate of such institution shall be compelled to attend religious services or receive religious instruction against his will, or, if a minor, without the consent of his parent or guardian.

Inmates of certain public institutions not to be deprived of religious exercises of their own faith; nor compelled to attend religious services, etc., against their will, etc.

*Section 5.* This amendment shall not take effect until the October first next succeeding its ratification and adoption by the people.

Time of taking effect.

ART. XLVII. The maintenance and distribution at reasonable rates, during time of war, public exigency, emergency or distress, of a sufficient supply of food and other common necessities of life and the providing of shelter, are public functions, and the commonwealth and the cities and towns therein may take and may provide the same for their inhabitants in such manner as the general court shall determine.

General court to determine manner of distribution of food, etc., during time of war, etc., by the commonwealth, cities and towns.

The constitution of Massachusetts was agreed upon by delegates of the people, in convention, begun and held at Cambridge, on the first day of September, 1779, and continued by adjournments to the second day of March, 1780, when the convention adjourned to meet on the first Wednesday of the ensuing June. In the mean time the constitution was submitted to the people, to be adopted by them, provided two-thirds of the votes given should be in the affirmative. When the convention assembled, it was found that the constitution had been adopted by the requisite number of votes, and the convention accordingly *Resolved*, "That the said Constitution or Frame of Government shall take place on the last Wednesday of October next; and not before, for any purpose,

## CONSTITUTION OF THE

save only for that of making elections, agreeable to this resolution." The first legislature assembled at Boston, on the twenty-fifth day of October, 1780.

The first nine Articles of Amendment were submitted, by delegates in convention assembled, November 15, 1820, to the people, and by them ratified and adopted April 9, 1821.

The tenth Article was adopted by the legislatures of the political years 1829-30 and 1830-31, respectively, and was approved and ratified by the people May 11, 1831.

The eleventh Article was adopted by the legislatures of the political years 1832 and 1833, respectively, and was approved and ratified by the people November 11, 1833.

The twelfth Article was adopted by the legislatures of the political years 1835 and 1836, respectively, and was approved and ratified by the people the fourteenth day of November, 1836.

The thirteenth Article was adopted by the legislatures of the political years 1839 and 1840, respectively, and was approved and ratified by the people the sixth day of April, 1840.

The fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, and nineteenth Articles were adopted by the legislatures of the political years 1854 and 1855, respectively, and ratified by the people the twenty-third day of May, 1855.

The twentieth, twenty-first, and twenty-second Articles were adopted by the legislatures of the political years 1856 and 1857, respectively, and ratified by the people on the first day of May, 1857.

The twenty-third Article was adopted by the legislatures of the political years 1858 and 1859, respectively, and ratified by the people on the ninth day of May, 1859, and was repealed by the twenty-sixth Amendment.

The twenty-fourth and twenty-fifth Articles were adopted by the legislatures of the political years 1859 and 1860, and ratified by the people on the seventh day of May, 1860.

The twenty-sixth Article was adopted by the legislatures of the political years 1862 and 1863, and ratified by the people on the sixth day of April, 1863.

The twenty-seventh Article was adopted by the legislatures of the political years 1876 and 1877, and was approved and ratified by the people on the sixth day of November, 1877.

The twenty-eighth Article was adopted by the legislatures of the political years 1880 and 1881, and was approved and ratified by the people on the eighth day of November, 1881.

The twenty-ninth Article was adopted by the legislatures of the political years 1884 and 1885, and was approved and ratified by the people on the third day of November, 1885.

The thirtieth and thirty-first Articles were adopted by the legislatures of the political years 1889 and 1890, and were approved and ratified by the people on the fourth day of November, 1890.

The thirty-second and thirty-third Articles were adopted by the legislatures of the political years 1890 and 1891, and were approved and ratified by the people on the third day of November, 1891.

The thirty-fourth Article was adopted by the legislatures of the political years 1891 and 1892, and was approved and ratified by the people on the eighth day of November, 1892.

The thirty-fifth Article was adopted by the legislatures of the political years 1892 and 1893, and was approved and ratified by the people on the seventh day of November, 1893.

The thirty-sixth Article was adopted by the legislatures of the political years 1893 and 1894, and was approved and ratified by the people on the sixth day of November, 1894.

The thirty-seventh Article was adopted by the legislatures of the political years 1906 and 1907, and was approved and ratified by the people on the fifth day of November, 1907.

The thirty-eighth Article was adopted by the legislatures of the political years 1909 and 1910, and was approved and ratified by the people on the seventh day of November, 1911.

The thirty-ninth Article was adopted by the legislatures of the political years 1910 and 1911, and was approved and ratified by the people on the seventh day of November, 1911.

## CONSTITUTION OF MASSACHUSETTS

The fortieth and forty-first Articles were adopted by the legislatures of the political years 1911 and 1912, and were approved and ratified by the people on the fifth day of November, 1912.

The forty-second Article was adopted by the legislatures of the political years 1912 and 1913, and was approved and ratified by the people on the fourth day of November, 1913.

The forty-third and forty-fourth Articles were adopted by the legislatures of the political years 1914 and 1915, and were approved and ratified by the people on the second day of November, 1915.

The forty-fifth, forty-sixth and forty-seventh Articles were submitted, by delegates in convention assembled, September 28, 1917, August 30, 1917 and October 11, 1917, respectively, to the people, and by them ratified and adopted November 6, 1917.

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[A proposed Article of Amendment prohibiting the manufacture and sale of Intoxicating Liquor as a beverage, adopted by the legislatures of the political years 1888 and 1889, was rejected by the people on the twenty-second day of April, 1889.]

[Proposed Articles of Amendment, (1) Establishing biennial elections of state officers, and (2) Establishing biennial elections of members of the General Court, adopted by the legislatures of the political years 1895 and 1896, were rejected by the people at the annual election held on the third day of November, 1896.]

[A proposed Article of Amendment to make Women eligible to appointment as Notaries Public, adopted by the legislatures of the political years 1912 and 1913, was rejected by the people on the fourth day of November, 1913.]

[A proposed Article of Amendment enabling Women to vote, adopted by the legislatures of the political years 1914 and 1915, was rejected by the people on the second day of November, 1915.]

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**INDEX TO THE CONSTITUTION.**

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## INDEX TO THE CONSTITUTION.

### A.

	Page
Abatements, exemptions, etc., from tax on income, may be granted by general court, . . . . .	51
Absentee voting, general court to have power to provide for, . . . . .	52
Acts and resolves of the general court, provision for submission of, to the people on referendum, . . . . .	51
Address of both houses of the legislature, judicial officers may be removed by governor with consent of council upon, . . . . .	27
Adjutant-general, appointed by the governor, . . . . .	22
Adjutants, to be appointed by commanding officers of regiments, . . . . .	22
Affirmations, instead of the required oaths, may be made by Quakers, . . . . .	31, 32, 37
Agriculture, arts, commerce, etc., to be encouraged, . . . . .	30
Alimony, divorce, etc., . . . . .	27
Amendment to the constitution, proposed in the general court, agreed to by a majority of senators and two-thirds of house present and voting thereon by yeas and nays; entered upon the journals of both houses, and referred to the next general court; if the next general court agrees to the proposition in the same manner, and to the same effect, it shall be submitted to the people, and, if approved by them by a majority vote, becomes a part of the constitution, . . . . .	37, 38
Antiaid amendment, so-called, . . . . .	52, 53
Apportionment of councillors, . . . . .	25, 42, 43
state to be divided into eight districts, . . . . .	43
Apportionment of senators, . . . . .	13, 41, 47
on basis of legal voters, and state to be divided into forty districts, . . . . .	46
Apportionment of representatives, . . . . .	16, 40, 41, 44
to the several counties, made on the basis of legal voters, . . . . .	46
Armies, dangerous to liberty, and not to be maintained without consent of the legislature, . . . . .	8
Arms, right of people to keep and to bear, for public defence, . . . . .	8
Arrest, members of house of representatives exempted from, on mesne process, while going to, returning from, or attending the general assembly, . . . . .	18
Arrest, search and seizure, right of, regulated, . . . . .	7
warrant to contain special designation, . . . . .	7
Attorney-general, to be chosen by the people annually in November, . . . . .	21, 44
to hold office for one year from third Wednesday in January next thereafter, and until another is chosen and qualified, . . . . .	44
Attorney-general, election determined by legislature, . . . . .	44
in failure of election by the voters, or in case of decease of person elected, vacancy to be filled by joint ballot of legislature from the two persons having the highest number of votes, at November election, . . . . .	44

	Page
Attorney-general, vacancy occurring during session of the legislature, filled by joint ballot of legislature from the people at large, . . . . .	44
vacancy occurring during recess of legislature, filled by governor by appointment, with consent of council, . . . . .	45
not eligible, unless an inhabitant of the state for five years next preceding election or appointment, . . . . .	45
office to be deemed vacant if person elected or appointed fails to be qualified within ten days, . . . . .	45
Attorneys, district, elected by the people of the several districts, . . . .	45
Auditor, to be chosen by the people annually in November, . . . . .	44
to hold office for one year from third Wednesday in January next thereafter, and until another is chosen and qualified, . . . . .	44
election determined by legislature, . . . . .	44
vacancy filled in same manner as in office of attorney-general, . . . .	44
not eligible, unless an inhabitant of the state for five years next preceding election, . . . . .	45
office to be deemed vacant if person elected or appointed fails to be qualified within ten days, . . . . .	45

## B.

Bail or sureties, excessive, not to be required, . . . . .	9
Bills, money, to originate in the house of representatives, . . . . .	17
Bills and resolves, to be laid before governor for revival, . . . . .	10
to have force of law if signed by governor, . . . . .	10
if objected to by governor in writing, to be returned to branch in which originated, and may be passed by two thirds of each branch present and voting thereon by yeas and nays, . . . . .	10
if not returned by governor within five days after presentation, to have force of law, unless the legislature adjourns before that time expires, 11, 35	
provision for submission of, to the people on referendum, . . . . .	51
Blind, the deaf, dumb or, privately controlled hospitals, etc., for, may be compensated for the care and support of such persons, . . . . .	53
Boards, public, to make quarterly reports to the governor, . . . . .	23
Body politic, formation and nature of, . . . . .	3
title of: The Commonwealth of Massachusetts, . . . . .	10
Bribery or corruption used in procuring an appointment or election, to disqualify from holding any office of trust, etc., . . . . .	33

## C.

Census of ratable polls, . . . . .	40
of inhabitants, . . . . .	41, 45, 46
of inhabitants and legal voters taken in the year 1865, and every tenth year thereafter, . . . . .	45, 47
enumeration of voters to determine the apportionment of representatives, . . . . .	46
Charitable, institution, etc., publicly controlled, not to deprive an inmate of the opportunity of religious exercises of his own faith, . . . . .	52
undertaking, not under exclusive public control, etc., grant of public money forbidden to, . . . . .	52

# INDEX TO THE CONSTITUTION.

61

	Page
Church, appropriation of public money, etc., not to be made to found any, . . .	52
Cities, may be chartered by the general court, if containing twelve thousand inhabitants and consented to by a majority thereof, . . .	35
Cities and towns not to aid certain schools, educational, charitable, religious or other institutions with moneys raised by taxation, . . .	52
Cities and towns, etc., to provide food and shelter during time of war, etc., . . .	53
Citizens, homes for, general court empowered to take land for relieving congestion of population and providing, . . .	51
Civil officers, meeting for election to be held annually on the Tuesday next after the first Monday in November, . . .	43
whose election is provided for by the constitution to be elected by a plurality of votes, . . .	43
Clerks of courts, elected by the people of the several counties, . . .	44
Clerks of towns, to make records and returns of elections, . . .	14
College, not publicly owned, etc., grant of public money forbidden to, . . .	52
Colonial laws, not repugnant to the constitution, continued in force, . . .	33
Commander-in-chief, governor to be, . . .	20
Commerce, agriculture and the arts, to be encouraged, . . .	30
Commissary-general, appointed and commissioned as fixed by law, . . .	26, 36
Commission officers, tenure of office to be expressed in commissions, . . .	27
Commissioners of insolvency, elected by the people of the several counties; annulled, . . .	45, 50
Commissions, to be in the name of the commonwealth, signed by governor, attested by the secretary, and have the great seal affixed, . . .	33
Commonwealth, not to aid certain schools, educational, charitable, religious or other institutions with moneys raised by taxation, . . .	52
to provide food and shelter during time of war, etc., . . .	53
Congestion of population, etc., general court empowered to authorize the taking of land for relieving, . . .	51
Congress, delegates to, . . .	28
members of, may not hold certain state offices, . . .	37
Constitution, amendment to, proposed in the general court, agreed to by a majority of senators and two-thirds of the house present and voting thereon by yeas and nays; entered upon the journals of both houses, and referred to the next general court; if the next general court agrees to the proposition in the same manner and to the same effect, it shall be submitted to the people, and, if approved by them by a majority vote, becomes a part of the constitution, . . .	37, 38
Constitution, provisions for revising, . . .	34, 37
to be enrolled on parchment, deposited in secretary's office, and printed in all editions of the laws, . . .	35
Coroners, . . .	21
Corrupt practices, in elections, relative to the right to vote by persons disqualified by reason of, . . .	51
Corruption or bribery used in procuring any appointment or election, to disqualify from holding any office of trust, etc., . . .	33
Council, five members to constitute a quorum, . . .	25
eight councillors to be elected annually, . . .	25, 43

	Page
Council, election to be determined by rule required in that of governor, . . .	43
to take oath of office before the president of the senate in presence of both houses of assembly, . . . . .	31
to rank next after the lieutenant governor, . . . . .	25
resolutions and advice to be recorded in a register, and signed by the mem- bers present, . . . . .	25
register of council may be called for by either house, . . . . .	25
to exercise the power of governor when office of governor and lieutenant governor is vacant, . . . . .	25
no property qualification required, . . . . .	43
eight districts to be formed, each composed of five contiguous senatorial districts, . . . . .	43
eligible to election if an inhabitant of state for five years preceding elec- tion, . . . . .	43
term of office, . . . . .	39
vacancy to be filled by election of a resident of the district by concurrent vote of the senate and house; if legislature is not in session, to be filled by governor with advice of council, . . . . .	48
Court, superior, judges not to hold certain other offices, . . . . .	37
Court, supreme judicial, judges to have honorable salaries fixed by standing laws, and to hold office during good behavior, . . . . .	9, 23
judges not to hold certain other offices, . . . . .	37
to give opinions upon important questions of law, etc., when required by either branch of the legislature or by the governor and council, . . .	27
Courts, clerks of, elected by the people of the several counties, . . . . .	45
Courts, probate, provisions for holding, . . . . .	27
registers elected by the people of the several counties, . . . . .	45
Courts and judicatories may be established by the general court, . . . . .	11
may administer oaths or affirmations, . . . . .	11
Crimes and offences, prosecutions for, regulated, . . . . .	7
Crimes to be proved in the vicinity of where they happen, . . . . .	7

## D.

Deaf, dumb or blind, privately controlled hospitals, etc., for the, may be com- pensated for the care of such persons, . . . . .	53
Debate, freedom of, in the legislature, . . . . .	8
Declaration of the rights of the inhabitants, . . . . .	4
Declaration and oaths of officers; tests abolished, . . . . .	30, 36, 37
Delegates to congress, . . . . .	28
Denomination, religious, appropriation of public money, etc., not to be made to found any, . . . . .	52
Denominational doctrine, public money not to be granted a school or institu- tion wherein is inculcated any, . . . . .	52
Departments, legislative, executive and judicial, to be kept separate, . . . .	9
Distress, public, etc., commonwealth, cities and towns may provide food, other common necessities of life and shelter during time of, . . . . .	53
District attorneys, elected by the people of the several districts, . . . . .	45

# INDEX TO THE CONSTITUTION.

63

	Page
Districts, councillor, eight, each to be composed of five contiguous senatorial districts, . . . . .	43
Districts, senatorial, forty, to be of adjacent territory, and to contain as near as may be an equal number of voters, . . . . .	47
Districts, representative, to be established by commissioners in the several counties, . . . . .	40, 46
Divorce, alimony, etc., . . . . .	27
Doctrine, denominational, public money not to be granted a school or institution wherein is inculcated any, . . . . .	52
Dumb or blind, the deaf, privately controlled hospitals, etc., for, may be compensated for the care of such persons, . . . . .	53
Duties and excises, power of general court to impose and levy reasonable, not to be limited, etc., . . . . .	52

## E.

Educational interests to be cherished, . . . . .	30
Educational undertaking, not under exclusive public control, etc., grant of public money forbidden to, . . . . .	52
Election, state, referendum on acts and resolves of the general court at, . . . . .	51
Election of civil officers, meeting to be held annually on the first Tuesday next after the first Monday in November, . . . . .	43
in case of failure to elect representative, meeting to be held on fourth Monday in November, . . . . .	43, 44
Election returns, . . . . .	14, 43
Elections ought to be free, . . . . .	6
Elections, by the people, of civil officers provided for by the constitution, to be by plurality of votes, . . . . .	43
voting machines may be used at, . . . . .	50
absentee voting at, general court to provide by law for, . . . . .	52
Emergency, public, etc., commonwealth, cities and towns may provide food, other common necessities of life and shelter during, . . . . .	53
Enacting style of laws, established, . . . . .	34
Equality and natural rights of all men, . . . . .	4
Estates, valuation to be taken anew once at least every ten years, . . . . .	12
Excises and duties, power of general court to impose and levy reasonable, not to be limited, etc., . . . . .	52
Executive department, not to exercise legislative or judicial powers, . . . . .	9
Exemptions, etc., from tax on income may be granted by general court, . . . . .	51
<i>Ex post facto</i> laws, declared unjust and oppressive, . . . . .	9
Exigency, public, etc., commonwealth, cities and towns may provide food, other common necessities of life and shelter during, . . . . .	53

## F.

Felony and treason, no subject to be declared guilty of, by the legislature, . . . . .	9
Fines, excessive, not to be imposed, . . . . .	9
Food, etc., may be provided by the commonwealth, cities and towns, during time of war, etc., . . . . .	53

	Page
Forest lands, taxation of, . . . . .	51
Frame of government, . . . . .	10
Free public libraries, appropriations may be made for the maintenance of, . .	52
Freedom of speech and debate in the legislature, . . . . .	8
Freehold, possession of, not required as qualification for seat in the general court or council, . . . . .	43
possession of, by governor, provision requiring, annulled, . . . . .	50
Fundamental principles of the constitution, a frequent recurrence to, recommended, . . . . .	8

## G.

General court, to assemble frequently for redress of grievances, and for making laws, . . . . .	8
freedom of speech and debate in, . . . . .	8
not to declare any subject to be guilty of treason or felony, . . . . .	9
formed by two branches, a senate and house of representatives, each having a negative on the other, . . . . .	10
to assemble every year on the first Wednesday of January, at such other times as they shall judge necessary, and whenever called by the governor, with the advice of council, . . . . .	10, 19, 38
may constitute and erect judicatories and courts, . . . . .	11
may make wholesome and reasonable laws and ordinances not repugnant to the constitution, . . . . .	11
may provide for the election or appointment of officers, and prescribe their duties, . . . . .	11
may impose taxes, etc., to be used for the public service, . . . . .	12, 51, 52
to be dissolved on the day next preceding the first Wednesday of January, 20, 38	
travelling expenses of members; provision annulled, . . . . .	17, 50
may be adjourned or prorogued, upon its request, by the governor with advice of council, . . . . .	20
session may be directed by governor, with advice of council, to be held in other than the usual place in case of an infectious distemper prevailing, 19, 20	
judicial officers may be removed upon address of, . . . . .	27
person convicted of bribery, not to hold seat in, . . . . .	33
may increase property qualifications of persons to be elected to office, . .	33
certain officers not to have seats in, . . . . .	32, 33
may be prorogued by governor and council for ninety days, if houses disagree, etc., . . . . .	20
to elect major generals by concurrent vote, . . . . .	22
empowered to charter cities, . . . . .	35
to determine election of governor, lieutenant governor and councilors, . . . . .	19, 24, 43, 44
to prescribe by law for election of sheriffs, registers of probate and commissioners of insolvency by the people of the counties, and district attorneys by the people of the districts, . . . . .	45
quorum, to consist of a majority of members, . . . . .	50
powers of, relative to the taking of land, etc., for widening or relocating highways or streets, . . . . .	50

# INDEX TO THE CONSTITUTION.

65

	Page
General court, provision for submission of bills and resolves of, to the people	
on referendum, . . . . .	51
powers of, relative to the taking of land, etc., to relieve congestion of	
population and to provide homes for citizens, . . . . .	51
to determine manner in which the commonwealth, cities and towns may	
provide food and shelter in time of war, etc., . . . . .	53
to provide by law for absentee voting, . . . . .	52
Government, objects of, . . . . .	3, 5, 6
Government by the people, as a free, sovereign and independent state, . . . . .	5
Governor, the supreme executive magistrate, styled, — The Governor of the	
Commonwealth of Massachusetts; with the title of, — His Excellency;	
elected annually, . . . . .	18
qualifications, . . . . .	19, 37, 50
term of office, . . . . .	38
should have an honorable stated salary, . . . . .	23
the commander-in-chief, of the army and navy, but may not oblige them	
to go out of the limits of the state, . . . . .	20, 21
to appoint the adjutant general, . . . . .	22
may call together the councillors at any time, . . . . .	19
not to hold certain other offices, . . . . .	32
to take oaths of office before president of the senate in presence of the	
two houses of assembly, . . . . .	32
to sign all commissions, . . . . .	33
election determined by the legislature, . . . . .	19
veto power, . . . . .	10
vacancy in office of, powers to be exercised by the lieutenant governor, . . . . .	24
vacancy in office of governor and lieutenant governor, powers to be exer-	
cised by the council, . . . . .	25
with advice of council, may adjourn or prorogue the legislature upon re-	
quest, and convene the same, . . . . .	19
may adjourn or prorogue the legislature for not exceeding ninety days	
when houses disagree, or may direct session to be held in other than	
the usual place in case of an infectious distemper prevailing, . . . . .	20
to appoint all judicial officers, notaries public and coroners; nominations	
to be made at least seven days before appointment, . . . . .	21, 36
to appoint officers of the continental army, . . . . .	22
may pardon offences, but not before conviction, . . . . .	21
may fill vacancy in council occurring when legislature is not in session, . . . . .	48
with consent of council, may remove judicial officers, upon the address	
of both houses of the legislature, . . . . .	27
Governor and council, to examine election returns, . . . . .	14, 44
may punish persons guilty of disrespect, etc., by imprisonment not exceed-	
ing thirty days, . . . . .	18
quorum to consist of governor and at least five members of the council, . . . . .	20
may require the attendance of the secretary of the commonwealth in	
person or by deputy, . . . . .	26
Guardian, parent or, consent of, required to have minor in a publicly controlled	
reformatory, etc., attend religious services, etc., . . . . .	53



## H.

	Page
Habeas corpus, privilege of writ to be enjoyed in the most ample manner, and not to be suspended by legislature except upon most urgent occasions,	33
Harvard College, powers and privileges, gifts, grants and conveyances confirmed,	28, 29
board of overseers established, but the government of the college may be altered by legislature,	29
officers may be elected members of the general court,	48
Hereditary offices and privileges, absurd and unnatural,	5, 6
Highways, etc., taking of land for widening or relocating, powers of the legislature concerning,	50
Home, the Soldiers', in Massachusetts, appropriations may be made for the support of,	52
Homes for citizens, general court given power to take land for relieving congestion of population and providing,	51
Hospital, not publicly owned, etc., grant of public money forbidden to,	52
for the deaf, dumb or blind, privately controlled, may be compensated for the care of such persons,	53
House of representatives, members may be instructed by the people,	8
a representation of the people annually elected and founded upon the principle of equality,	16
may impose fines upon towns not choosing members,	17
expense of travel once every session each way, to be paid by the government; provision annulled,	17, 50
to enter objections made by governor to a bill or resolve at large upon records,	10
qualifications of members,	17, 43, 46, 47
must be an inhabitant of district for one year preceding election, and shall cease to be a member when ceasing to be an inhabitant of the state,	46, 47
members not to be arrested on mesne process during going to, return from, or attending the general assembly,	18
the grand inquest of the commonwealth,	17
to originate all money bills, but the senate may propose or concur with amendments,	17
not to adjourn more than two days at a time,	17
quorum of,	17, 47, 50
to choose officers, establish its rules, etc.,	18
may punish by imprisonment, not exceeding thirty days, persons guilty of disrespect, etc.; trial may be by committee,	18
privileges of members,	18
may require the attendance of secretary of the commonwealth in person or by deputy,	26
may require the opinions of the justices of the supreme judicial court upon important questions of law, and upon solemn occasions,	27
meeting for election to be held on the Tuesday next after the first Monday of November,	43

## INDEX TO THE CONSTITUTION.

67

	Page
House of representatives, in case of failure to elect, meeting to be held on the fourth Monday of November, . . . . .	43
to consist of two hundred and forty members, apportioned to the several counties equally, according to relative number of legal voters, . . . . .	46
commissioners to divide counties into representative districts of contiguous territory, but no town or ward of a city to be divided, . . . .	46
no district entitled to elect more than three representatives, . . . . .	46
board authorized to divide county into districts, to be certified to by the secretary, the number of representatives to which the county is entitled, . . . . .	46, 47

### I.

Impeachments, by the house of representatives, to be tried by the senate; limitation of sentence; party convicted liable to indictment, . . . .	16
Income, tax on, general court may impose and levy, etc., . . . . .	51
Incompatible offices, . . . . .	32, 37
Infirmity, not publicly owned, etc., grant of public money forbidden to, . .	52
for the deaf, dumb or blind, privately controlled, may be compensated for the care actually rendered such persons, . . . . .	53
"Inhabitant," the word defined, . . . . .	13
Inhabitants, census to be taken in 1865, and every tenth year thereafter, . . . . .	40, 41, 45, 46, 47
may be provided with food and shelter during time of war, exigency, etc., . .	53
Inmate, of publicly controlled reformatory, etc., not to be deprived of opportunity of religious exercises of his own faith, etc., . . . . .	53
Insolvency, commissioners of, elected by the people of the several counties; annulled, . . . . .	45, 50
Institution, not publicly owned, etc., grant of public money forbidden, . .	52
for the deaf, dumb or blind, privately controlled, may be compensated for the care actually rendered such persons, . . . . .	53
reformatory, penal or charitable, publicly controlled, not to deprive inmate of the opportunity of religious exercises of his own faith, etc., . .	53
of learning, wherein any denominational doctrine is inculcated, not to be aided, etc., by grant of public money or credit, . . . . .	52
Instruction of representatives, . . . . .	8

### J.

Judges of courts may not hold certain other offices, . . . . .	32, 33, 37
Judges of the supreme judicial court, to hold office during good behavior, and to have honorable salaries established by standing laws, . . . . .	9, 23, 24, 27
to give opinions upon important questions of law, etc., when required by the governor and council, or either branch of legislature, . . . . .	27
not to hold certain other offices, . . . . .	32
Judicatories and courts, may be established by the general court, . . . .	11
may administer oaths or affirmations, . . . . .	11

	<b>Page</b>
Judicial department, not to exercise legislative or executive powers, . . .	9
Judicial officers, appointed by the governor with consent of council; nominations to be made seven days prior to appointment, . . .	21
to hold office during good behavior, except when otherwise provided by the constitution, . . .	27
may be removed from office by the governor, upon the address of both houses of the legislature, . . .	27
Jury, trial by, right secured, . . .	7
Justices of the peace, commissions to expire in seven years from date of appointment, but may be renewed, . . .	27
removal of, from office, . . .	50

## L.

Land, etc., taking of, for widening or relocating highways, etc., . . .	51
for relieving congestion of population and providing homes for citizens, .	51
Law, prohibiting free exercise of religion not to be passed, . . .	52
Law-martial, only those employed in the army and navy, and the militia in actual service, subject to, except by authority of the legislature, . .	9
Laws, every person to have remedy in, for injury to person or property, .	6
power of suspension or execution of, only in the legislature, . . .	8
<i>ex post facto</i> , prohibited as unjust and inconsistent with free government, of province, colony and state, not repugnant to the constitution, continued in force, . . .	9
Learning, school or institution of, wherein any denominational doctrine is inculcated, not to be aided, etc., by grant of public money or credit, .	33
Legal obligations, grant of public money or credit permitted to carry out certain, . . .	52
Legislative power, . . .	9, 51, 52, 53
Legislative department, not to exercise executive or judicial powers, .	9
Legislature (see General Court).	
Liberty of the press, essential to the security of freedom, . . .	8
Libraries, free public, appropriations may be made for maintenance of, .	52
Lieutenant governor, to be annually elected in November, — title of, His Honor; who shall be qualified same as governor, . . .	24, 38, 43, 50
in the absence of governor, to be president of the council, . . .	24
to be acting governor when the chair of the governor is vacant, . . .	24
to take oath of office before president of the senate in presence of both houses, . . .	32
not to hold certain other offices, . . .	32
term of office, . . .	38
Literature and the sciences to be encouraged, . . .	30

## M.

Magistrates and officers, accountable to the people, . . .	5
Magistrates and courts, not to demand excessive bail, impose excessive fines, or inflict cruel punishments, . . .	9

# INDEX TO THE CONSTITUTION.

69

	Page
Major generals, elected by senate and house of representatives by concurrent vote, . . . . .	22
may appoint their aids, . . . . .	22
Marriage, divorce and alimony, . . . . .	27
Martial law, only those employed in the army and navy, and the militia in actual service, subject to, except by authority of legislature, . . . .	9
Military power, subordinate to civil authority, . . . . .	8
Militia, not to be obliged by commander-in-chief to march out of the limits of the state, . . . . .	21
captains and subalterns, elected by the train-bands, . . . . .	22, 36
all members of companies may vote, including minors, . . . . .	36
Militia, field officers, elected by captains and subalterns, . . . . .	22
brigadiers, elected by field officers, . . . . .	22
major generals, elected by senate and house of representatives by concurrent vote, . . . . .	22
mode of election of officers to be fixed by standing laws, . . . . .	22
if electors refuse to elect, governor with advice of council may appoint officers, . . . . .	22
officers commissioned to command may be removed as may be prescribed by law, . . . . .	22, 36
appointment of staff officers, . . . . .	22
organization; divisions, brigades, regiments and companies, . . . .	22
Minor, in publicly controlled reformatory, etc., not compelled to attend religious services, etc., without consent of parent or guardian, . . . .	53
Money, issued from treasury by warrant of governor, etc., . . . . .	22, 23
mentioned in the constitution, to be computed in silver at six shillings and eight pence per ounce, . . . . .	33
Money bills, to originate in the house of representatives, . . . . .	17
Moneys, raised or appropriated for public or common schools, not to be applied for support of sectarian schools, etc., . . . . .	45, 52
Moral obligations of lawgivers and magistrates, . . . . .	8
Moral qualifications for office, . . . . .	8

## N.

Necessaries of life, commonwealth, cities and towns may take and provide, during time of war, exigency, etc., . . . . .	53
Notaries public, to be appointed by governor with advice of council, . . .	25, 26, 36, 50
how removed, . . . . .	36, 50

## O.

Oaths and affirmations, may be administered by courts and judicatories, . .	11
how and by whom taken and subscribed, . . . . .	30, 31, 32, 36, 37
forms of, . . . . .	30, 31, 37
Quakers may affirm, . . . . .	32, 37
to be taken by all civil and military officers, . . . . .	36, 37
Objects of government, . . . . .	3, 6

	Page
Obligations, legal, grant of public money or credit to certain institutions, etc.,	
to carry out certain, . . . . .	52
Offences and crimes, prosecutions for, regulated, . . . . .	7
Office of trust, person convicted of bribery, etc., not to hold, . . . . .	33
Office, rotation in, right secured, . . . . .	6
all persons having the prescribed qualifications equally eligible to, . . . . .	6
no person eligible to, unless they can read and write, . . . . .	45
Officers, civil, legislature may provide for the naming and settling of, . . . . .	11
Officers, commission, tenure of office to be expressed in commissions, . . . . .	27
Officers, judicial, to hold office during good behavior, except, etc., . . . . .	27
may be removed by governor, with consent of council, upon the address of	
both houses of the legislature, . . . . .	27
Officers of former government, continued, . . . . .	34
Officers of the militia, election and appointment of, . . . . .	22
removal of, . . . . .	22, 36
Officers and magistrates, accountable to the people, . . . . .	5
Offices, plurality of, prohibited to governor, lieutenant governor and judges, . . . . .	32, 37
incompatible, . . . . .	32, 33, 37
Organization of the militia, . . . . .	22

## P.

Pardon of offences, governor with advice of council may grant, but not before conviction, . . . . .	21
Parent, consent of guardian or, required to have minor in a publicly controlled reformatory, etc., attend religious services, etc., . . . . .	53
Penal institutions, etc., publicly controlled, not to deprive an inmate of the opportunity of religious exercises of his own faith, etc., . . . . .	53
People, to have the sole right to govern themselves as a free, sovereign and independent state, . . . . .	6
have a right to keep and to bear arms for the public defence, . . . . .	8
have a right to assemble to consult upon the common good, to instruct their representatives, and to petition legislature, . . . . .	8
Person and property, remedy for injuries to, should be in the laws, . . . . .	6
Petition, right of, . . . . .	8
Plantations, unincorporated, tax-paying inhabitants may vote for councillors and senators, . . . . .	14
Plurality of offices, . . . . .	32, 37
of votes, election of civil officers by, . . . . .	43
Political division, any, of the commonwealth, may pay for care or support furnished by privately controlled hospitals, etc., for the deaf, dumb or blind, . . . . .	53
Political year, begins on the first Wednesday of January, . . . . .	38
Polls, ratable, census of, . . . . .	40
Population, congestion of, etc., general court empowered to authorize the taking of land for relieving, . . . . .	51
Preamble to constitution, . . . . .	3
Press, liberty of, essential to the security of freedom, . . . . .	8

# INDEX TO THE CONSTITUTION.

71

	Page
Private property taken for public uses, compensation to be made for, . . . . .	6
Probate courts, provisions for holding, . . . . .	27
registers, elected by the people of the several counties, . . . . .	21, 45
judges may not hold certain other offices, . . . . .	37
Property, income derived from various classes of, rates upon, how levied, . . . . .	51
Property qualification, may be increased by the legislature, . . . . .	33
partially abolished, . . . . .	43
of governor, annulled, . . . . .	50
Prosecutions for crimes and offences regulated, . . . . .	7
Provincial laws, not repugnant to the constitution, continued in force, . . . . .	33
Public boards and certain officers to make quarterly reports to the governor, . . . . .	23
Public credit, etc., not to be authorized to found, etc., any church, religious denomination or society, . . . . .	52
Public exigency, etc., commonwealth, cities and towns may provide food, other common necessities of life and shelter during, . . . . .	53
Public libraries, free, appropriations may be made for support of, . . . . .	52
Public notary (see Notary public).	
Public officers, right of people to secure rotation, . . . . .	6
all persons having the prescribed qualifications equally eligible, . . . . .	6
Public religious worship, right and duty of, . . . . .	4, 52, 53
Public trading amendment, so-called, . . . . .	53
Punishments, cruel and unusual, not to be inflicted, . . . . .	9

## Q.

Quakers, may make affirmation, . . . . .	32, 37
Qualification of persons to be elected to office may be increased by the legislature, . . . . .	33
Qualification, property, of governor, abolished, . . . . .	50
Qualification, property, partially abolished, . . . . .	43
Qualifications, of a voter, . . . . .	13, 17, 35, 36, 45, 48, 49, 50
of governor, . . . . .	19, 44, 50
of lieutenant governor, . . . . .	24, 44, 50
of councillors, . . . . .	42, 43, 44
of senators, . . . . .	15, 41, 47
of representatives, . . . . .	17, 18, 43, 46, 47
of secretary, treasurer, auditor, and attorney-general, . . . . .	44
Qualifications, moral, of officers and magistrates, . . . . .	8
Quartermasters, appointed by commanding officers of regiments, . . . . .	22
Quorum, of council, . . . . .	20, 25, 44
of senate, . . . . .	16, 48, 50
of house of representatives, . . . . .	17, 47, 50

## R.

Ratable polls, census of, . . . . .	40
Rates, tax, upon income, how levied, . . . . .	51
Reading and writing, knowledge of, necessary qualifications for voting or holding office, . . . . .	45
Records of the commonwealth to be kept in the office of the secretary, . . . . .	26

	Page
Referendum, on acts and resolves of the general court, provision for submission to the people to accept or reject, . . . . .	51
Reformatory, etc., publicly controlled, not to deprive an inmate of the opportunity of religious exercises of his own faith, etc., . . . . .	53
Register of the council, resolutions and advice to be recorded in, and signed by members present, . . . . .	25
Registers of probate, chosen by the people of the several counties, . . . . .	21, 45
Religion, free exercise of, no law to be passed prohibiting, . . . . .	52
Religious denomination, appropriation of public money, etc., not to be made to found any, . . . . .	52
Religious denominations, equal protection secured to all, . . . . .	5, 39, 52
Religious sect or denomination, no subordination of one to another to be established by law, . . . . .	5, 39
Religious services or instruction, inmate of a publicly controlled reformatory, etc., not to be compelled to attend against his will, etc., . . . . .	53
Religious societies, may elect their own pastors or religious teachers, . . . . .	5, 39
membership of, defined, . . . . .	39
Religious society, appropriation of public money, etc., not to be made to found any, . . . . .	52
Religious undertaking, not under exclusive public control, etc., grant of public money forbidden to, . . . . .	52
Religious worship, public, right and duty of, and protection therein, . . . . .	4
support of the ministry, and erection and repair of houses of worship, . . . . .	4, 5, 39
Remedies by recourse to the law, to be free, complete and prompt, . . . . .	6
Representatives (see House of Representatives).	
Resolves (see Bills and resolves).	
Returns of votes, . . . . .	14, 19, 43, 44
Revision of constitution provided for in the year 1795, and subsequently, . . . . .	34, 37, 38
Rights, declaration of, . . . . .	4

## S.

Sailors and soldiers, who have served, etc., during time of war, not disqualified from voting on account of non-payment of poll tax, . . . . .	49
Salary, a stated and honorable salary to be established for the governor, . . . . .	23
permanent and honorable salaries to be established for the justices of the supreme judicial court, and to be enlarged if not sufficient, . . . . .	9, 23
Sale of land or buildings to provide homes for citizens, etc., . . . . .	51
School moneys, not to be appropriated for sectarian schools, etc., . . . . .	45, 52
Seal, great, of the commonwealth to be affixed to all commissions, . . . . .	33
Search, seizure and arrest, right of, regulated, . . . . .	7
Secretary of the Commonwealth, to be chosen by the people annually in November, . . . . .	26, 44
to hold office for one year from third Wednesday in January next thereafter, and until another is chosen and qualified, . . . . .	44
manner of election, etc., same as governor, . . . . .	44
in failure of election by voters, or in case of decease of person elected, vacancy to be filled by joint ballot of legislature, from the two persons having the highest number of votes at November election, . . . . .	44

# INDEX TO THE CONSTITUTION.

73

	Page
Secretary of the Commonwealth, vacancy occurring during session of the legislature, filled by joint ballot of the legislature from the people at large,	44
vacancy occurring when legislature is not in session, to be filled by governor, by appointment, with advice and consent of council,	36, 44, 45
not eligible, unless an inhabitant of the state for five years next preceding election or appointment,	45
office to be deemed vacant if person elected or appointed fails to be qualified within ten days,	45
records of commonwealth to be kept in office of,	26
may appoint deputies, for whose conduct he shall be accountable,	26
to attend governor and council, senate and house, in person or by deputies, as they shall require,	26
to attest all commissions,	33
to certify to board authorized to divide county into districts, the number of representatives to which the county is entitled,	46
Sectarian schools, not to be maintained at public expense,	45, 52
Selectmen, to preside at town meetings, elections, etc.,	13
Self-government, right of, asserted,	5
Senate, the first branch of the legislature,	10, 13
to consist of forty members, apportionment, etc.,	12, 40, 47
to be chosen annually,	13
governor and at least five councillors, to examine and count votes, and issue summonses to members,	14
to be final judges of elections, returns and qualifications of their own members,	15
vacancy to be filled by election, by people of the district, upon order of majority of senators elected,	15, 48
qualifications of a senator,	15, 43
not to adjourn more than two days at a time,	15
to choose its officers and establish rules,	15
shall try all impeachments,	16, 17
quorum of,	16, 48, 50
may punish for certain offences; trial may be by committee,	18
may require the attendance of the secretary of the commonwealth in person or by deputy,	26
may require the opinions of the justices of the supreme judicial court upon important questions of law, and upon solemn occasions,	27
to enter objections, made by governor to passage of a bill or resolve, at large on records,	10
districts, forty in number, to be of adjacent territory, and to contain, as near as may be, an equal number of voters,	47
apportionment based upon legal voters,	47
School or institution of learning, wherein any denominational doctrine is inculcated, not to be aided, etc., by grant of public money or credit,	52
Shelter, etc., may be provided by the commonwealth, cities and towns, during time of war, public exigency, etc.,	53
Sheriffs, elected by the people of the several counties,	21, 45



	Page
Silver, value of money mentioned in the constitution to be computed in silver at six shillings and eight pence per ounce, . . . . .	33
Society, religious, etc., appropriation of public money, etc., not to be made to found any, . . . . .	52
Soldier, not to be quartered in any house, in time of peace, without consent of owner, . . . . .	9
Soldiers and sailors, who have served in time of war, etc., not disqualified from voting on account of non-payment of poll tax, . . . . .	49
Soldiers' Home in Massachusetts, appropriations may be made for support of, . . . . .	52
Solicitor-general, . . . . .	21
Standing armies, dangerous to liberty and not to be maintained without consent of the legislature, . . . . .	8
State election, referendum on acts and resolves of the general court at, . . . . .	51
State or body politic, entitled, — The Commonwealth of Massachusetts, . . . . .	10
Streets, etc., taking of land for widening or relocating, powers of the legislature concerning, . . . . .	50
Supreme judicial court, judges to have honorable salaries fixed by standing laws, and to hold office during good behavior, . . . . .	9, 23
to give opinions upon important questions of law, etc., when required by either branch of the legislature or by the governor and council, . . . . .	27
not to hold certain other offices, . . . . .	32, 37
Sureties of bail, excessive, not to be required, . . . . .	9

## T.

Tax on income, general court may impose and levy, . . . . .	51
Taxation should be founded on consent, . . . . .	6, 8
Taxation, moneys raised by, for support of public schools, not to be applied to other schools, etc., . . . . .	52
Taxes, not to be levied without the consent of the people or their representatives, . . . . .	8
may be imposed by the legislature, . . . . .	12, 51
valuation of estates, to be taken anew once at least every ten years, . . . . .	12
Tenure that all commission officers shall by law have in their offices, shall be expressed in their commissions, . . . . .	27
Tests abolished, . . . . .	37
Title of body politic, — The Commonwealth of Massachusetts, . . . . .	10
Title of governor to be, — His Excellency, . . . . .	18
Title of lieutenant governor to be, — His Honor, . . . . .	24
Town clerk, to make record and return of elections, . . . . .	14
Town meetings, selectmen to preside at, . . . . .	13
Town representation in the legislature, . . . . .	16, 40, 41
Towns, voting precincts in, . . . . .	49
Towns and cities, not to aid certain schools, educational, charitable, religious or other institutions with moneys raised by taxation, . . . . .	52
may provide food and shelter during time of war; public emergency, etc., . . . . .	53
Trading, public, amendment, so-called, . . . . .	53

## INDEX TO THE CONSTITUTION.

75

	Page
Travelling expenses of members, to general assembly and returning home, once in every session, to be paid by the government, . . . . .	17
Treason and felony, no subject to be declared guilty of, by the legislature, . .	9
Treasurer and receiver general, to be chosen by the people annually in November, . . . . .	26, 44
to hold office for one year from third Wednesday in January next thereafter, and until another is chosen and qualified, . . . . .	44
manner of election, etc., same as governor, . . . . .	44
not eligible, unless an inhabitant of the state for five years next preceding election or appointment, . . . . .	45
no man eligible more than five years successively, . . . . .	26
in failure of election by voters, or in case of decease of person elected, vacancy to be filled by joint ballot of legislature from the two persons having the highest number of votes at November election, . . . . .	44
vacancy occurring during session of the legislature, filled by joint ballot of the legislature from the people at large, . . . . .	44, 45
vacancy occurring when legislature is not in session, to be filled by governor, by appointment, with advice and consent of the council, . . . . .	36, 44, 45
office to be deemed vacant if person elected or appointed fails to be qualified within ten days, . . . . .	45
Treasury, no moneys to be issued from, but upon the warrant of governor, except, etc., . . . . .	22, 23
Trial by jury, right to, secured, . . . . .	7
guaranteed in criminal cases, except in army and navy, . . . . .	7

### U.

Uniform rate of tax, on incomes derived from same class of property, to be levied throughout the commonwealth, etc., . . . . .	51
University at Cambridge, . . . . .	28, 29, 48, 49

### V.

Vacancy in office of governor, powers to be exercised by lieutenant governor, . .	25, 26
Vacancy in offices of governor and lieutenant governor, powers to be exercised by the council, . . . . .	25
Vacancy in the council, to be filled by the election of a resident of the district by concurrent vote of the senate and house; if legislature is not in session, to be filled by governor with advice of the council, . . . . .	43, 44, 48
Vacancy in the senate, to be filled by election by the people upon the order of a majority of senators elected, . . . . .	15, 48
Vacancy in office of secretary, treasurer, auditor and attorney-general, caused by decease of person elected, or failure to elect, filled by joint ballot of legislature from the two persons having highest number of votes at November election, . . . . .	44, 45
occurring during session of legislature, filled by joint ballot of legislature from people at large, . . . . .	44, 45

	Page
Vacancy occurring when legislature is not in session, to be filled by governor, by appointment, with advice of council, . . . . .	36, 44, 45
Vacancy in militia office, filled by governor and council, if electors neglect or refuse to make election, . . . . .	22
Valuation of estates, to be taken anew once in every ten years at least, . . . .	12
Veto power of the governor, . . . . .	10
Voters, qualifications of, at elections for governor, lieutenant governor, sena- tors, and representatives, . . . . .	13, 17, 35, 36, 45, 48, 49, 50
not disqualified on account of non-payment of poll tax if they have served in the army or navy in time of war, etc., . . . . .	48
male citizens, twenty-one years of age, who have resided in the state one year, and within the town or district six months, who have paid a state or county tax within two years next preceding the election of state officers, and such as are exempted by law from taxation, but in other respects qualified, and who can write their names and read the con- stitution in the English language, . . . . .	17, 35, 36, 45
the basis upon which the apportionment of representatives to the several counties is made, . . . . .	46
basis of apportionment of senators, . . . . .	47
census of, to be taken in 1865, and every tenth year after, . . . . .	45, 46, 47
referendum to, on acts and resolves of the general court, . . . . .	51
Votes, returns of, . . . . .	14, 19, 43, 44
plurality of, to elect civil officers, . . . . .	43
Voting, absentee, general court to have power to provide for, . . . . .	52
machines may be used at elections, . . . . .	50
precincts in towns, . . . . .	49

## W.

War time, commonwealth, cities and towns may provide food, other common necessaries of life, and shelter during, . . . . .	53
Wild or forest lands, taxation of, . . . . .	51
Worship, public, the right and duty of all men, . . . . .	4
Writ of habeas corpus, to be enjoyed in the most free, easy, cheap and expedi- tious manner, and not to be suspended by legislature, except for a limited time, . . . . .	33, 34
Writing and reading, necessary qualifications for voting, or holding office, . . .	45
Writs, to be issued in the name of the commonwealth under the seal of the court, bear test of the first justice, and be signed by the clerk, . . . . .	33

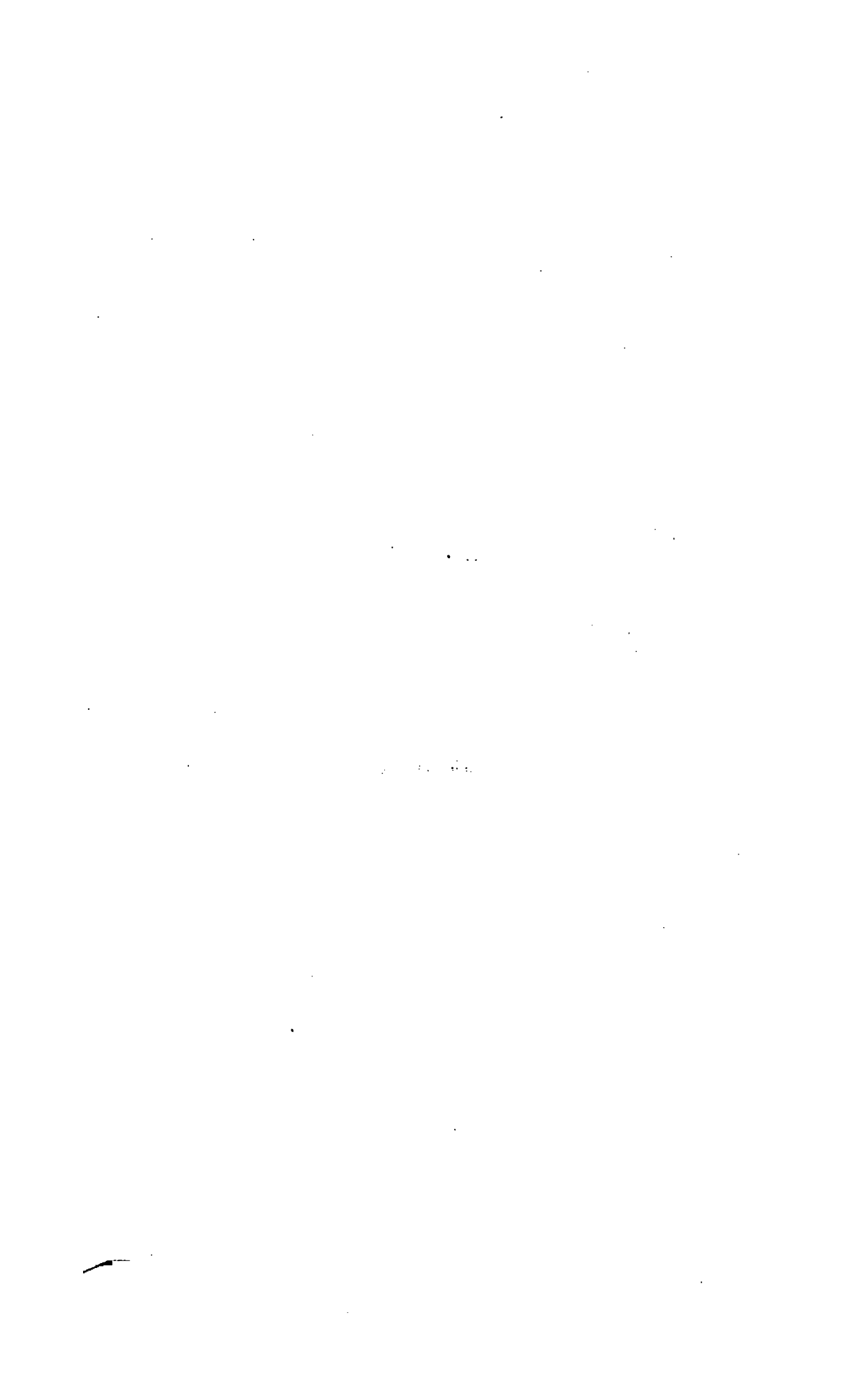
## Y.

Year, political, begins on the first Wednesday of January, . . . . .	38
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